

1 Andrew H. Wilson, SBN #063209
2 WILSON, RYAN & CAMPILONGO
3 235 Montgomery Street
4 Suite 450
5 San Francisco, California 94104
6 (415) 391-3900 - (415) 954-0938

7 Laurie J. Bartilson
8 BOWLES & MOXON
9 6255 Sunset Boulevard, Suite 2000
10 Hollywood, CA 90028
11 (213) 953-3360 - (213) 953-3351

12 Attorneys for Plaintiff and
13 Cross-Defendant CHURCH OF SCIENTOLOGY
14 INTERNATIONAL

RECEIVED

MAY 21 1994

HUB LAW OFFICES

15 SUPERIOR COURT OF THE STATE OF CALIFORNIA

16 FOR THE COUNTY OF MARIN

17 CHURCH OF SCIENTOLOGY) CASE NO. 157 680
18 INTERNATIONAL, a California not-)
19 for-profit religious corporation;) THIRD REQUEST FOR JUDICIAL
20) NOTICE
21 Plaintiffs,)
22 vs.)
23) DATE: June 20, 1994
24) TIME: 9:00 a.m.
25 GERALD ARMSTRONG; MICHAEL WALTON;) DEPT: 1
26 et al.,)
27 Defendants.)
28)
29) DISCOVERY CUT-OFF: None
30) MOTION CUT-OFF: None
31) TRIAL DATE: None
32)
33 GERALD ARMSTRONG,)
34)
35 Cross-Complainant,)
36 vs.)
37)
38)
39 CHURCH OF SCIENTOLOGY)
40 INTERNATIONAL, a California)
41 Corporation; DAVID MISCAVIGE;)
42 DOES 1 to 100;)
43 Cross-Defendant.)
44)

1 Plaintiff and cross-defendant, Church of Scientology
2 International requests that this Court take judicial notice of
3 the following records of the Superior Court of the County of
4 Marin, the Superior Court of the County of Los Angeles of the
5 State of California, and the United States District Court for the
6 Central District of California, pursuant to Evidence Code
7 Sections 452 and 453:

8 1. The Order of this Court of April 4, 1994, sustaining
9 plaintiff's demurrer, a true and correct copy of which is
10 attached hereto, for the Court's convenience, as Exhibit 1.

11 2. The Verified Amended Cross-Complaint for Declaratory
12 Relief, Abuse of Process, and Breach of Contract, filed on
13 October 7, 1992 in the case of Church of Scientology
14 International v. Gerald Armstrong, et al., Los Angeles Superior
15 Court, Case No. BC 052395, a true and correct copy of which is
16 attached hereto as Exhibit 2;

17 3. Church of Scientology International's Answer to the
18 Verified Amended Cross-Complaint, filed on January 20, 1993, in
19 the case of Church of Scientology International v. Gerald
20 Armstrong, et al., Los Angeles Superior Court, Case No. BC
21 052395, a true and correct copy of which is attached hereto as
22 Exhibit 3;

23 4. Notice of Motion and Motion By Cross-Defendant Church
24 of Scientology International for Summary Adjudication of the
25 Second and Third Causes of Action of the Cross-complaint, filed
26 on March 3, 1993, in the case of Church of Scientology
27 International v. Gerald Armstrong, et al., Los Angeles Superior
28 Court, Case No. BC 052395, a true and correct copy of which is

1 attached hereto as Exhibit 4;

2 5. Memorandum of Points and Authorities in Support of
3 Motion for Summary Adjudication of the Second and Third Causes of
4 Action of the Cross-complaint, filed on March 3, 1993, in the
5 case of Church of Scientology International v. Gerald Armstrong,
6 et al., Los Angeles Superior Court, Case No. BC 052395, a true
7 and correct copy of which is attached hereto as Exhibit 5;

8 6. Minute Order of March 23, 1993, re: Motion of
9 Defendant, Gerald Armstrong, for Stay or in the Alternative, for
10 an Extension of Time to Oppose Motions for Summary Adjudication
11 entered by the Honorable David A. Horowitz, Superior Court Judge,
12 in the case of Church of Scientology International v. Gerald
13 Armstrong, et al., Los Angeles Superior Court, Case No. BC
14 052395, a true and correct copy of which is attached hereto as
15 Exhibit 6;

16 7. Opinion Issued on May 16, 1994, by the Court of Appeal,
17 Second Appellate District, a copy of which is attached hereto as
18 Exhibit 7;

19 8. The Minute Order, Ruling on the Plaintiff's Motion for
20 Preliminary Injunction, issued on May 28, 1992, in the case of
21 Church of Scientology International v. Gerald Armstrong, et al.,
22 Los Angeles Superior Court, Case No. BC 052395, a true and
23 correct copy of which is attached hereto as Exhibit 8;

24 9. The Declaration of David Miscavige, filed in the case
25 of Church of Scientology International v. Steven Fishman, et al.,
26 United States District Court for the Central District of
27 California, Case No. CV 91-6426 HLH (Tx) on February 8, 1994, a
28 copy of which is attached hereto as Exhibit 9;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

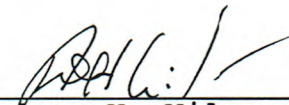
10. The Declaration of Linda Fong in Opposition to the Motion to Commence Coordination Proceedings, filed in this matter on November 5, 1993, in this action, a copy of which is attached hereto for the Court's convenience as Exhibit 10.

Dated: May 19, 1994

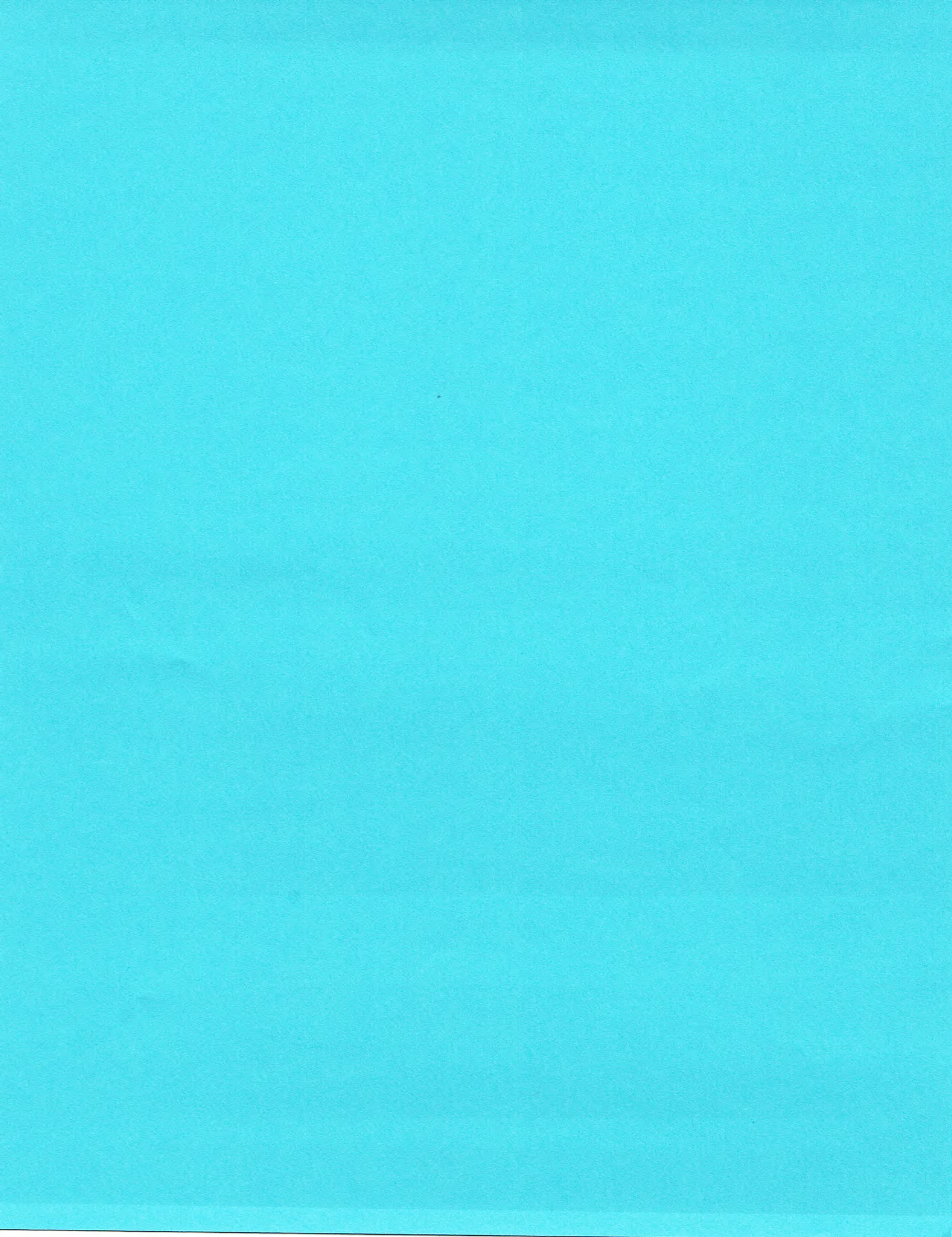
Respectfully Submitted,

Lauri J. Bartilson
BOWLES & MOXON

WILSON, RYAN & CAMPILONGO

By: 

Andrew H. Wilson
Attorneys for Plaintiff and
Cross-Defendant Church of
Scientology International



FILED

APR - 5 1994

HOWARD HANSON
MARIN COUNTY CLERK
by P. Fan, Deputy

1 Andrew H. Wilson
2 WILSON, RYAN & CAMPILONGO
3 235 Montgomery Street
4 Suite 450
5 San Francisco, California 94104
6 (415) 391-3900

7 Laurie J. Bartilson
8 BOWLES & MOXON
9 6255 Sunset Boulevard, Suite 2000
10 Hollywood, CA 90028
11 (213) 953-3360

12 Attorneys for Plaintiff
13 CHURCH OF SCIENTOLOGY
14 INTERNATIONAL

15 SUPERIOR COURT OF THE STATE OF CALIFORNIA

16 FOR THE COUNTY OF MARIN

17 CHURCH OF SCIENTOLOGY)
18 INTERNATIONAL, a California not-)
19 for-profit religious corporation,)

CASE NO. 157 680
[PROPOSED] ORDER
RE DEMURRER TO FIRST
AMENDED CROSS-COMPLAINT

20 Plaintiff,

21 vs.

22 GERALD ARMSTRONG; DOES 1 through)
23 25, inclusive,)

DISCOVERY CUT-OFF: None
MOTION CUT-OFF: None
TRIAL DATE: None

24 Defendants.)
25)
26)
27)
28)

1 Having reviewed and considered plaintiff Church of
2 Scientology International's demurrer to defendant Gerald
3 Armstrong's First Amended Cross-complaint, together with the
4 points and authorities and exhibits filed by the parties in
5 support of the demurrer and in opposition to the demurrer,

6 It is ORDERED that:

7 1. The demurrer to the First Amended Cross-complaint is
8 SUSTAINED.

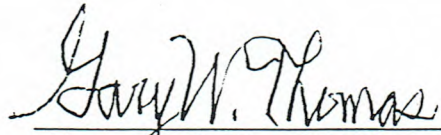
9 2. As to the first cause of action for declaratory relief,
10 cross-complainant seeks a declaration of issues which will be
11 determined in the Los Angeles Superior Court actions
12 (enforceability of settlement contract) or in the underlying
13 complaint (ability of plaintiff to recover under the Uniform
14 Fraudulent Transfer Act). See California Ins. Guarantee Assn. v.
15 Superior Court (1991) 231 Cal.App.3d 1617, 1623-1624.

16 3. As to the second cause of action for abuse of process,
17 cross-complainant fails to allege any "wilful act in the use of
18 the process not proper in the regular conduct of the proceeding."
19 See Oren Royal Oaks Venture v. Greenberg, Bernhard, Weiss &
20 Karma, Inc. (1986) 42 Cal.3d 1157, 1168. All of the allegations
21 regarding plaintiff's pursuit of this litigation go to the first
22 element of the cause of action, "ulterior purpose." Id. Cross-
23 complainant shall have 20 days' leave to amend to state a cause
24 of action, if he can.

25 4. Plaintiff's failure to tab its exhibits on the Court's
26 copy as required by Local Rule 2.03B increased the Court's burden
27 in analyzing the demurrer. Plaintiff shall pay sanctions in the
28 amount of \$49 to the clerk of the court within ten (10) days for

1 its failure to comply with Local Rules. Cal.Rules of Court, Rule
2 227.

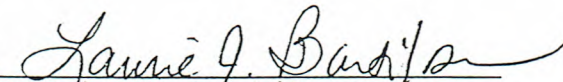
3 Dated APRIL 4, 1994

4 
5 GARY W. THOMAS
6 Judge of the Superior Court

6 Respectfully submitted,



7 Andrew H. Wilson
8 WILSON, RYAN & CAMPILONGO


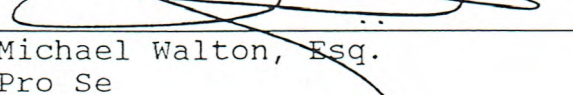
9 BOWLES & MOXON

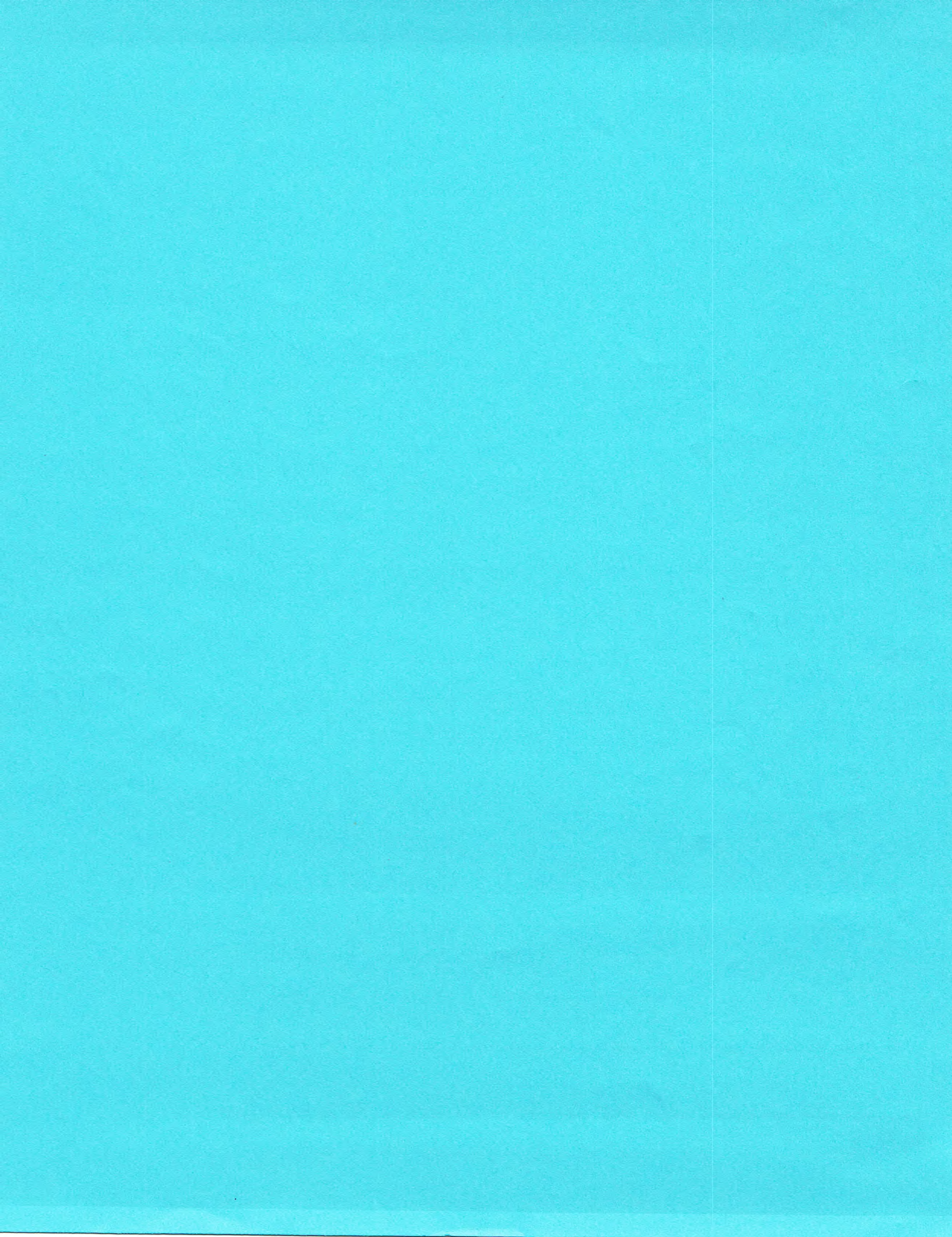
10 By: 
11 Laurie J. Bartilson

12 Attorneys for Plaintiff
13 CHURCH OF SCIENTOLOGY
INTERNATIONAL

14 APPROVED AS TO FORM:

15 
16 By: 
17 Ford Greene, Esq.
18 HUB LAW OFFICES
19 Attorney for Defendants
GERALD ARMSTRONG and THE GERALD
ARMSTRONG CORPORATION

20
21 
22 By: 
23 Michael Walton, Esq.
24 Pro Se



1 Ford Greene, Esquire
California State Bar No. 107601
2 HUB LAW OFFICES
711 Sir Francis Drake Boulevard
3 San Anselmo, California 94960-1949
Telephone: (415) 258-0360
4

5 PAUL MORANTZ, ESQ.
P.O. Box 511
Pacific Palisades, CA 90272
6 (213) 459-4745

7 Attorneys for Defendant
GERALD ARMSTRONG
8
9

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 IN AND FOR THE COUNTY OF LOS ANGELES
12

13 CHURCH OF SCIENTOLOGY)
14 INTERNATIONAL, a California)
not-for-profit religious)
15 corporation;)
16 Plaintiffs,)
17 vs.)
18 GERALD ARMSTRONG; DOES 1)
through 25, inclusive,)
19 Defendants.)
20

No. BC 052395
VERIFIED AMENDED
CROSS-COMPLAINT FOR DECLARATORY
RELIEF, ABUSE OF PROCESS, AND
BREACH OF CONTRACT

21 _____)
22 GERALD ARMSTRONG,)
23 Cross-Complainant,)
24 -vs-)

25 CHURCH OF SCIENTOLOGY)
INTERNATIONAL, a California)
26 Corporation, CHURCH OF)
SCIENTOLOGY OF CALIFORNIA, a)
California Corporation,)
27 RELIGIOUS TECHNOLOGY CENTER, a)
California Corporation,)
28 CHURCH OF SPIRITUAL)

1 TECHNOLOGY,)
 a California Corporation,)
 2 AUTHOR SERVICES, INCORPORATED,)
 a California Corporation,)
 3 AUTHOR'S FAMILY TRUST, ESTATE)
 OF L. RON HUBBARD, DAVID)
 4 MISCAVIGE, NORMAN STARKEY)
 and DOES 1 through 100,)
 5 inclusive,)
)
 6 Cross-Defendants.)
)
 7 _____)

8 Cross-Complainant GERALD ARMSTRONG alleges as follows:

9 PARTIES

10 1. Cross-Complainant GERALD ARMSTRONG, hereinafter,
 11 "ARMSTRONG," is a resident of Marin County, California.

12 2. Cross-Defendants CHURCH OF SCIENTOLOGY
 13 INTERNATIONAL, hereinafter "CSI," CHURCH OF SCIENTOLOGY OF
 14 CALIFORNIA, hereinafter "CSC," RELIGIOUS TECHNOLOGY CENTER,
 15 hereinafter "RTC," CHURCH OF SPIRITUAL TECHNOLOGY, hereinafter
 16 "COST," and AUTHOR SERVICES, INCORPORATED, hereinafter "ASI," are
 17 corporations organized and existing under the laws of the State of
 18 California, having principal offices and places of business in
 19 California and doing business within the State of California
 20 within the territorial jurisdiction of this Court..

21 3. Cross-Defendants AUTHOR'S FAMILY TRUST, hereinafter
 22 "AFT," and ESTATE OF L. RON HUBBARD, hereinafter "ERH," are
 23 entities that are residents of the State of California.

24 4. Cross-Defendant DAVID MISCAVIGE, hereinafter
 25 "MISCAVIGE," is an individual domiciled in the State of
 26 California.

27 5. Cross-Defendant NORMAN STARKEY, hereinafter
 28 "STARKEY," is an individual domiciled in the State of California.

1 6. At all times herein mentioned, each Cross-Defendant
2 was the agent, employee or coconspirator of each of the remaining
3 Cross-Defendants, and in doing the things herein mentioned, each
4 Cross-Defendant was acting within the course and scope of its
5 employment and authority as such agent and/or representative
6 and/or employee and/or coconspirator, and with the consent of the
7 remaining Cross-Defendants.

8 7. Corporate Cross-Defendants named in paragraph 2,
9 above, are subject to a unity of control, and the separate alleged
10 corporate structures were created as an attempt to avoid payment
11 of taxes and civil judgments and to confuse courts and those
12 seeking redress for these Cross-Defendants' acts. Due to the
13 unity of personnel, commingling of assets, and commonality of
14 business objectives, these Cross-Defendants' attempts at
15 separation of these corporations should be disregarded.

16 8. The designation of Cross-Defendants as "churches"
17 or religious entities is a sham contrived to exploit the
18 protection of the First Amendment of the United States
19 Constitution and to justify their criminal, and tortious acts
20 against ARMSTRONG and their others. Cross-Defendant corporations
21 are an international, money-making, politically motivated
22 enterprise which subjugates and exploits its employees and
23 customers with coercive psychological techniques, threat of
24 violence and blackmail. Cross-Defendant corporations, CSI, CSC,
25 RTC, COST and ASI act as one organization and are termed
26 hereinafter as the "ORG."

27 9. Cross-Defendant MISCAVIGE controls and operates the
28 ORG and uses it to enforce his orders and carry out his attacks on

1 groups, agencies or individuals, including the acts against
2 ARMSTRONG alleged herein to the extent there is no separate
3 identity between MISCAVIGE and the ORG and any claim of such
4 separate identity should be disregarded.

5 10. Cross-Defendant entities AFT and ERH derive
6 financial benefit from the ORG, participate in its acts against
7 groups, agencies or individuals, including ARMSTRONG, and
8 participate in MISCAVIGE's and the ORG's efforts to avoid payment
9 of taxes and civil judgments and to confuse courts and persons
10 seeking redress of grievances against MISCAVIGE and the ORG.

11 11. Cross-Defendant STARKEY controls and operates AFT
12 and ERH and uses them in conspiracy with MISCAVIGE to carry out
13 their attacks on groups, agencies or individuals, including the
14 acts against ARMSTRONG alleged herein.

15 12. Cross-Defendants DOES 1 through 100, inclusive, are
16 sued herein under such fictitious names for the reason that the
17 true names and capacities of said Cross-Defendants are unknown to
18 ARMSTRONG at this time; that when the true names and capacities of
19 said Cross-Defendants are ascertained ARMSTRONG will ask leave of
20 Court to amend this Cross-Complaint to insert the true names and
21 capacities of said fictitiously named Cross-Defendants, together
22 with any additional allegations that may be necessary in regard
23 thereto; that each of said fictitiously named Cross-Defendants
24 claim that ARMSTRONG has a legal obligation to Cross-Defendants by
25 virtue of the facts set forth below; that each of said
26 fictitiously named Cross-Defendants is in some manner legally
27 responsible for the acts and occurrences hereinafter alleged.

28

FACTUAL ALLEGATIONS

1
2 13. From 1969 through 1981 ARMSTRONG was a
3 Scientologist who devoted his life to Scientology founder, L. Ron
4 Hubbard, the ideals he proclaimed and the Scientology organization
5 he claimed to have built to promulgate those ideals. After
6 leaving Hubbard's and the organization's employ and control in
7 December 1981, ARMSTRONG was declared by the ORG a "Suppressive
8 Person," or "SP," which designated him an "enemy," and became the
9 target of Hubbard's policy of "Fair Game," which states:

10 "ENEMY - SP Order. Fair Game. May be deprived of
11 property or injured by any means by any
12 Scientologist without any discipline of the
13 Scientologist. May be tricked, sued or lied to or
14 destroyed."

15 The ORG, using Cross-Defendant herein CSC as Plaintiff, filed a
16 lawsuit, No. C 420153, in the Los Angeles Superior Court against
17 ARMSTRONG, on August 2, 1982. ARMSTRONG filed a Cross-Complaint
18 against Cross-Defendants CSC and L. RON HUBBARD September 17,
19 1982, and a Third Amended Cross-Complaint against Cross-Defendants
20 CSC, CSI, RTC and L. RON HUBBARD July 1, 1983. The Complaint and
21 the Cross-Complaint thereto, hereinafter referred to together as
22 Armstrong I, were bifurcated and the underlying Complaint was
23 tried without a jury in 1984. A Memorandum of Intended Decision
24 was rendered by Judge Paul G. Breckenridge, Jr. June 20, 1984 and
25 entered as a Judgment August 10, 1984. The ORG appealed.

26 14. During the Armstrong I litigation the ORG carried
27 out a massive and international campaign of Fair Game against
28 ARMSTRONG and his lawyer, Michael J. Flynn of Boston,

1 Massachusetts, hereinafter "Flynn," who had been the prime mover
2 in much of the anti-ORG-related litigation throughout the United
3 States. Acts against ARMSTRONG pursuant to Fair Game included
4 assault, an attempted staged highway accident, attempted
5 entrapment, theft of private papers and original artwork,
6 dissemination of information from his confidential "counseling"
7 records, filing false criminal charges on at least five occasions,
8 global defamation, threat of murder, and illegal electronic
9 surveillance. ARMSTRONG learned during the period he was
10 represented in the litigation by Flynn that Fair Game acts against
11 Flynn included attempted murder, theft of private papers, threats
12 against his family, defamation, thirteen frivolous lawsuits,
13 spurious bar complaints, and framing with the forgery of a
14 \$2,000,000 check on a bank account of L. Ron Hubbard.

15 15. In the fall of 1986, while working as a paralegal
16 in the Flynn firm, ARMSTRONG was aware that settlement talks
17 involving all the ORG-related cases in which Flynn was either
18 counsel or party were occurring in Los Angeles, California between
19 Flynn and the ORG. Such talks had occurred a number of times over
20 the prior four years. On December 5, 1986 ARMSTRONG was flown to
21 Los Angeles, as were several other of Flynn's clients with claims
22 against the organization, to participate in a "global settlement."
23 Prior to flying to Los Angeles, ARMSTRONG had reached an agreement
24 with Flynn on a monetary figure to settle Armstrong I, but did not
25 know any of the other conditions of settlement.

26 16. After ARMSTRONG's arrival in Los Angeles, Flynn
27 showed him a copy of a document entitled "Mutual Release of All
28 Claims and Settlement Agreement," hereinafter "the settlement

1 agreement," and some other documents including affidavits, and was
2 advised by Flynn that he was expected to sign them all. Upon
3 reading the settlement agreement ARMSTRONG was shocked and
4 heartsick. ARMSTRONG told Flynn that the condition of "strict
5 confidentiality and silence with respect to his experiences with
6 the" ORG, since it involved over seventeen years of his life was
7 impossible to perform. ARMSTRONG told Flynn that the liquidated
8 damages clause was outrageous; that pursuant to the agreement
9 ARMSTRONG would have to pay \$50,000.00 if he told a medical doctor
10 or psychologist about his experiences from those years, or if he
11 put on a job resume what positions he had held during his
12 organization years. He told Flynn that the requirements of non-
13 amenability to service of process and non-cooperation with persons
14 or organizations adverse to the ORG were obstructive of justice.
15 He told Flynn that agreeing to leave the ORG's appeal of the
16 Breckenridge decision and not respond to any subsequent appeals
17 was unfair to the courts and all the people who had been helped by
18 the decision. ARMSTRONG told Flynn that an affidavit the ORG was
19 demanding that he sign was false, that there had been no
20 management change, that his private preclear folders were still
21 being culled, and that he had the same disagreements with the
22 ORG's Fair Game policies and actions, which had continued without
23 change up to that date. ARMSTRONG told Flynn that he was being
24 asked to betray everything and everyone he had fought for against
25 organization injustice.

26 17. In answer to ARMSTRONG's objections to the
27 settlement agreement Flynn said that the silence and liquidated
28 damages clauses, and anything which called for obstruction of

1 justice were "not worth the paper they [were] printed on." Flynn
2 stated that representation a number of times and in a number of
3 ways; e.g., that ARMSTRONG could not contract away his
4 Constitutional rights; that the conditions were unenforceable.
5 Flynn stated that he had advised the ORG's lawyers that those
6 conditions in the settlement agreement were not worth the paper
7 they were printed on, but that the ORG, nevertheless, insisted on
8 their inclusion and would not agree to any changes. Flynn pointed
9 out to ARMSTRONG the clauses in the settlement agreement
10 concerning his release of his claims against the ORG and the ORG's
11 release of its claims against ARMSTRONG and stated that they were
12 the essential elements of the settlement and what the organization
13 was paying for.

14 18. Flynn stated to ARMSTRONG at that time that he was
15 sick of the litigation and the threats to him and his family, and
16 that he wanted to get out. Flynn stated that all the people
17 involved in his side of the ORG-related litigation were sick of it
18 and wanted to get on with their lives. He said that as a
19 condition of settlement he and his co-counsels in the ORG-related
20 litigation had agreed to not become involved in that litigation in
21 the future. Flynn conveyed to ARMSTRONG a hopelessness concerning
22 the inability of the courts of this country to deal with the ORG,
23 its lawyers and their contemptuous abuse of the justice system.
24 Flynn told ARMSTRONG that if he didn't sign the documents all he
25 had to look forward to was more years of harassment and misery.
26 When ARMSTRONG expressed his continuing objections to the
27 settlement agreement, Edward Walters, whom Flynn had kept present
28 in the room during this discussion with ARMSTRONG, and who was

1 another of Flynn's clients and a participant in the settling of
2 Flynn's ORG-related litigation, yelled at ARMSTRONG accusing him
3 of killing the settlement for everyone, that everyone else had
4 signed or would sign, and that everyone else wanted the
5 settlement. Flynn told ARMSTRONG that the ORG would only settle
6 with everyone together; otherwise there would be no settlement.
7 Flynn did agree to ask the ORG to include a clause in ARMSTRONG'S
8 settlement agreement allowing him to keep his creative works
9 relating to L. Ron Hubbard or the organization.

10 19. Flynn stated to ARMSTRONG that a major reason for
11 the settlement's "global" form was to give the ORG the opportunity
12 to change its combative attitude and behavior by removing the
13 threat he and his clients represented to it. He said that the ORG
14 wanted peace and unless ARMSTRONG signed the ORG's documents there
15 would be no peace. Flynn stated that the ORG's attorneys had
16 promised that the affidavit ARMSTRONG considered false would only
17 be used by the ORG if ARMSTRONG began attacking it after the
18 settlement. Since ARMSTRONG had no intention of attacking the
19 ORG, understood that the offensive affidavit would never see the
20 light of day.

21 20. During ARMSTRONG'S meeting with Flynn he found
22 himself facing a dilemma. If he refused to sign the settlement
23 agreement and affidavit all the other settling litigants, many of
24 whom had already been flown to Los Angeles in anticipation of a
25 settlement, would be disappointed and would continue to be
26 subjected to organization harassment for an unknown period of
27 time. ARMSTRONG had been positioned as a deal-breaker and led to
28 believe he would lose the support of some, if not all, of the

1 settling claimants, several of whom were key witnesses in his case
2 against the ORG. ARMSTRONG was led to believe that all the
3 lawyers involved in his case desperately wanted out of the ORG-
4 related litigation, and should he not sign the settlement
5 documents would become unhappy and unwilling in their
6 representation of him. ARMSTRONG reasoned that, on the other
7 hand, if he did sign the settlement documents all his co-
8 litigants, some of whom he knew to be in financial trouble, would
9 be happy, the stress they felt would be reduced and they could get
10 on with their lives. ARMSTRONG believed that Flynn and his other
11 lawyers would be happy and the threat to them and their families
12 removed. ARMSTRONG believed that the ORG would have the
13 opportunity its lawyers said it desired to clean up its act, and
14 start anew. Armed with Flynn's assurance that the conditions he
15 found so offensive in the settlement agreement were not worth the
16 paper they were printed on, and the knowledge that the ORG's
17 attorneys were also aware of that fact, ARMSTRONG put on a happy
18 face and on the following day went through the charade of a
19 videotaped signing. A true and correct copy of the settlement
20 agreement is attached hereto as Exhibit A.

21 21. On December 11, 1986, pursuant to stipulation,
22 Judge Breckenridge issued orders dismissing the Armstrong I Cross-
23 Complaint, directing that the settlement agreement be filed and
24 retained by the clerk under seal, releasing to the ORG all trial
25 exhibits and other documents which had been held by the clerk of
26 the Court, and sealing the entire Court file. Despite the Court's
27 specific order the ORG never filed the Settlement Agreement.

28 22. On December 18, 1986 the California Court of

1 Appeal, Second Appellate District, Division Three, issued an
2 unpublished opinion dismissing the ORG's appeal from the
3 Breckenridge decision on the ground that there would be no
4 appealable final judgment until after trial of the Armstrong I
5 Cross-Complaint.

6 23. The ORG filed a Petition for Rehearing of its
7 appeal in the Court of Appeal, which was denied January 15, 1987;
8 then a Petition for Review by the California Supreme Court which
9 was denied March 11, 1987. On January 30, 1987 the ORG filed in
10 the Los Angeles Superior Court an "Unopposed Motion to Withdraw
11 Memorandum of Intended Decision," which Judge Breckenridge denied
12 February 2, 1987. On February 9, 1987 the ORG filed a Notice of
13 Appeal from the orders issued pursuant to stipulation by Judge
14 Breckenridge on December 11, 1986.

15 24. The ORG, and all Cross-Defendants herein, did not
16 desire peace from the December 1986 settlement with ARMSTRONG but
17 an advantage wherein they could continue to attack him without his
18 being able to respond. They removed his lawyers from defending
19 him, and used his lead lawyer, Flynn, as their agent to relay to
20 ARMSTRONG threats of litigation and to keep him from responding to
21 their attacks. Immediately following the settlement ORG
22 operatives contacted Beverly Rutherford, one of ARMSTRONG's
23 friends from his pre-Scientology past, to try to get information
24 from her concerning ARMSTRONG of a personal and embarrassing
25 nature to be used against him. Also immediately following the
26 settlement the ORG delivered a pack of documents concerning and
27 attacking ARMSTRONG to reporters Robert Welkos and Joel Sappell of
28 the Los Angeles Times. The ORG has continued from the date of the

1 settlement to collect intelligence information on ARMSTRONG, to
2 consider him an enemy and to treat him as Fair Game. The
3 settlement itself in intention, form, and effect was an act of
4 Fair Game.

5 25. Although contacted a number of times by the media
6 for statements concerning the ORG or Hubbard in the three years
7 following the settlement, ARMSTRONG did not make any public
8 statements during that period.

9 26. In the fall of 1987 ARMSTRONG received a document,
10 which had been created and circulated by the ORG to discredit
11 ARMSTRONG and writer Bent Corydon. In this document the ORG
12 accused ARMSTRONG of "numerous false claims and lies," of
13 "incompetence as a researcher," as having "stolen valuable
14 documents from [ORG] archives," and of being part of "a small
15 cabal of thieves, perjurers and disreputable sources." Such
16 statements were themselves lies, known to the ORG to be lies,
17 malicious, and intended to destroy ARMSTRONG's reputation and
18 credibility. In this document as well the ORG describes
19 ARMSTRONG's experiences in the organization as Hubbard's archivist
20 and biographical researcher, and discusses aspects of the
21 Armstrong I litigation, all in violation of the letter and spirit
22 of the settlement.

23 27. In early 1988 ARMSTRONG received a number of
24 affidavits the ORG had filed in Miller, which accuse ARMSTRONG of,
25 inter alia, retaining documents in violation of a Los Angeles
26 Superior Court order, providing documents to Russell Miller in
27 violation of a court order, and violating court sealing orders.
28 The affidavits accuse ARMSTRONG of being "an admitted agent

1 provocateur of the U.S. Federal Government who planned to plant
2 forged documents in [ORG] files which would then be "found" by
3 Federal officials in subsequent investigations as evidence of
4 criminal activity," and of intending to "plant forged documents
5 within the [ORG] and then using the contents to get the [ORG]
6 raided. All of the ORG's accusations regarding ARMSTRONG in the
7 affidavits filed in Miller are false, known by the ORG to be
8 false, malicious and intended to destroy ARMSTRONG's credibility.
9 ARMSTRONG has proven repeatedly to the ORG that its accusations
10 are false, but the ORG has not corrected the falsehoods wherever
11 they have been uttered or written but has continued to spread its
12 lies about ARMSTRONG.

13 28. The ORG's affidavits filed in Miller also contain
14 descriptions of ARMSTRONG's experiences in the organization and
15 conditions of the settlement agreement. At the same time the ORG
16 demanded that ARMSTRONG not discuss his own experiences or
17 conditions of settlement on penalty of \$50,000.00 an utterance.
18 The ORG itself filed documents in the case straight out of the
19 sealed Armstrong I file. Such acts are intended to bring about
20 ARMSTRONG's mental disintegration and total destruction, are
21 conscious and premeditated acts by the ORG of Fair Game, and have
22 caused ARMSTRONG great anguish.

23 29. Also in October 1987 ARMSTRONG was contacted by a
24 reporter from the London Sunday Times who advised him that ORG
25 representatives had given the newspaper a pack of documents
26 concerning him. The reporter said that the ORG representatives
27 were claiming that ARMSTRONG was an agent provocateur who tried to
28 plant forged documents in the organization and wanted to destroy

1 the scientology religion. The reporter also said that the ORG
2 representatives had given the newspaper a videotape of ARMSTRONG
3 they claimed showed him conspiring to overthrow ORG management.
4 ARMSTRONG told the reporter that although he considered the ORG's
5 attacks violated the settlement agreement he would not respond to
6 them.

7 30. On December 21, 1988 ARMSTRONG received a call from
8 Flynn who relayed a message from Michael Lee Hertzberg, one of the
9 organization's leading lawyers stating that he wanted ARMSTRONG to
10 file a pleading to keep the court file sealed in the face of
11 efforts by the plaintiff in Corydon v. CSI, Los Angeles Superior
12 Court case no. C 694401, who had filed a motion to unseal the
13 Armstrong I court file. Flynn stated that Hertzberg had
14 threatened that if ARMSTRONG failed to cooperate Hertzberg would
15 release a private and personal document belonging to ARMSTRONG
16 regarding one of his dreams specifically sealed by Judge
17 Breckenridge in Armstrong I.

18 31. On December 27, 1988 ARMSTRONG spoke again by phone
19 with Flynn, who advised ARMSTRONG that due to a court order
20 unsealing the file in Armstrong I, he was going to file a pleading
21 to say that the settlement documents should remain sealed.
22 ARMSTRONG disagreed and advised Flynn he did not want such a paper
23 filed, but on November 15, 1989 ARMSTRONG received notice that
24 Flynn had filed such a paper against his wishes.

25 32. On October 11, 1989 ARMSTRONG was served with a
26 deposition subpoena duces tecum which had been issued by Toby
27 Plevin, an attorney representing Corydon in his litigation against
28 the ORG.

1 33. On October 23, 1989 ARMSTRONG received a call from
2 Heller who stated that the ORG would seek a protective order to
3 prevent Armstrong's deposition in Corydon from going forward, that
4 Armstrong should be represented by an ORG lawyer, that to maintain
5 the settlement agreement ARMSTRONG could only answer questions by
6 court order, that ARMSTRONG should refuse to answer the deposition
7 questions and force Corydon to get an order from the court
8 compelling ARMSTRONG to answer.

9 34. On October 25, 1989 Heller told ARMSTRONG that he
10 had a problem with ARMSTRONG responding to deposition questions
11 concerning such things as L. Ron Hubbard's misrepresentations or
12 ARMSTRONG's period as Hubbard's archivist in the organization,
13 that he wanted to have an attorney present to instruct ARMSTRONG
14 not to answer such questions so that Corydon would have to move to
15 compel an answer, and that if the court ordered sanctions for
16 ARMSTRONG's refusal to answer, the ORG would indemnify him.
17 Heller further stated that ARMSTRONG had a contractual obligation
18 to the ORG, and that if ARMSTRONG did answer deposition questions
19 he would have breached the settlement agreement and may be sued.

20 35. Based on Heller's threats, the earlier threats and
21 ORG post-settlement attacks described above, ARMSTRONG's
22 understanding of his importance to and involvement with the ORG,
23 and his knowledge of the ORG, its fraud and Fair Game, moved him
24 at that time to protect himself by beginning to assemble
25 documentation and prepare a declaration to oppose these ORG
26 abuses.

27 36. On November 1, 1989 Heller, on behalf of ORG entity
28 ASI, a defendant in Corydon, filed a motion "to Delay or Prevent

1 the Taking of Certain Third Party Depositions," relating to the
2 deposition of ARMSTRONG. Heller stated in the motion:

3 "One of the key ingredients to completing these
4 settlement, insisted upon by all parties involved, was
5 strict confidentiality respecting: (1) the Scientology
6 parishioner or staff member's experiences within the
7 Church of Scientology; (2) any knowledge possessed by
8 the Scientology entities concerning those staff members
9 or parishioners; and (3) the terms and conditions of the
10 settlements themselves."

11 37. On November 18, 1989 ARMSTRONG received a copy of a
12 videotape edited from videotapes of him made in 1984 by ORG
13 intelligence operatives and used thereafter against him. This copy
14 had been given to the London Sunday Times, along with a package of
15 documents concerning ARMSTRONG by ORG operatives. Taped to the
16 video cassette was the business card of Eugene M. Ingram, the
17 ORG's private detective who had set up the videotaping.

18 38. On November 20, 1989 Heller contacted ARMSTRONG and
19 advised him that he wanted ARMSTRONG to execute ORG a declaration
20 that ARMSTRONG had either no or minimal contact with Corydon in
21 the organization, and that subsequent to leaving he had received
22 no information about Corydon. ARMSTRONG told Heller that he knew
23 Corydon quite well and that he saw himself as a relevant witness,
24 and would go forward with the deposition. Heller said to do so
25 would be a mistake because only the ORG would ever help him, that
26 ARMSTRONG should assist the ORG because it had honored its
27 agreement, that the ORG had signed a non-disclosure agreement as
28 well and as far as he knew had lived up to its agreement. When

1 ARMSTRONG disagreed, Heller reiterated at the end of the
2 conversation that if ARMSTRONG started to testify, for example
3 about the Hubbard biography project, or things he and the ORG
4 considered irrelevant, he would be sued for breach of contract.

5 39. On November 30, 1989 ARMSTRONG attended a hearing
6 in Corydon of the ORG's motion to prevent his deposition from
7 going forward where he was served with a subpoena duces tecum
8 ordering him to appear as a witness in the trial of Religious
9 Technology Center v. Joseph A. Yanny, Los Angeles Superior Court
10 Case no. C 690211.

11 40. On February 15, 1990 ARMSTRONG received a call
12 from one of Michael Flynn's partners, attorney Michael A. Tabb, who
13 said he had been called by Heller who told him that the ORG
14 considered ARMSTRONG had violated the settlement agreement by
15 being in the courthouse when he was served in Yanny, that they
16 intended to prove it, and that he would be sued.

17 41. On January 18, 1990 ARMSTRONG received a copy of
18 Appellants' Opening Brief which the ORG had filed December 21,
19 1989 in appeal No. B025920 in Division Three of the Second
20 Appellate District in the California Court of Appeal wherein the
21 ORG sought a reversal of the 1984 Breckenridge decision. On
22 January 30, 1990 ARMSTRONG received the Reply Brief of Appellants
23 and Response to Cross-Appeal filed in Division Four in the Second
24 Appellate District in an appeal entitled Church of Scientology of
25 California and Mary Sue Hubbard, Appellants, against Gerald
26 Armstrong, Defendant; Bent Corydon, Appellee, No. B038975 in which
27 the ORG sought a reversal of Judge Geernaert's ruling unsealing
28 the Armstrong I court file.

1 42. Because the settlement agreement prohibited
2 ARMSTRONG from opposing any of the appeals the ORG might take, he
3 filed a Petition for Permission to Respond in the B025920 Division
4 Three appeal February 28, 1990, and in the B038975 Division Four
5 appeal March 1, 1990. When his petitions were granted, ARMSTRONG
6 filed a Respondent's Briefs opposing the ORG appeals.

7 43. ARMSTRONG's March 15, 1990 declaration that he had
8 filed in the Court of Appeal was used by Corydon as an exhibit
9 supporting a motion for an order directing non-interference with
10 witnesses. In its opposition thereto the ORG Heller contradicted
11 what he earlier had said to ARMSTRONG about the agreement being
12 reciprocal, now stating that the ORG was free to talk about
13 Armstrong, but that Armstrong was not free to talk about it.
14 Heller's lies to ARMSTRONG, his lies in sworn declarations about
15 the reciprocity of the settlement agreement, the trap ARMSTRONG
16 had been placed in by the ORG and his own attorney, who, because
17 of ORG Fair Game tactics, had deserted him, caused ARMSTRONG great
18 distress and grief.

19 44. In his March 27 1990, declaration and in the
20 opposition to plaintiff's motion for non-interference with
21 witnesses in Corydon, Heller denied that the three telephone calls
22 with ARMSTRONG occurred, denied offering to have the ORG pay for
23 an attorney at ARMSTRONG's deposition in Corydon, denied offering
24 to indemnify ARMSTRONG for sanctions which might be imposed by the
25 court, and denied threatening ARMSTRONG with litigation. These
26 denials are lies.

27 45. In his March 26, 1990 declaration, Kenneth Long,
28 the ORG staff member who had executed a number of the affidavits

1 concerning ARMSTRONG which were filed in the Miller case, stated:

2 "In January, 1987, following settlement of Scientology
3 (sic) of California ("CSC"), Armstrong turned over to
4 CSC all [ORG]-related documents in his possession. I
5 personally inspected the documents turned over by
6 Armstrong, and found a number of copies of the documents
7 which Armstrong had previously sworn that he had
8 surrendered to the Clerk of the Court. [] Based on my
9 discovery of these documents, I concluded that Armstrong
10 had intentionally perjured himself on numerous
11 occasions, and had as well knowingly violated orders
12 issued by judges at all levels ranging from the Los
13 Angeles Superior Court to the Supreme Court of the
14 United States."

15 Long's statement is false, reckless and malicious. Long stated as
16 well that his affidavits attacking ARMSTRONG in Miller were
17 necessary "to detail the elements of the breach of confidence
18 against Miller and Penguin, and the claim could not have been
19 brought without explaining the underlying actions taken by
20 Armstrong."

21 46. On March 21, 1990 ARMSTRONG spoke by phone with
22 Michael Flynn, who said that he had been called by Lawrence Heller
23 two or three weeks before. Flynn said that Heller told him that
24 ARMSTRONG was right then sitting in the courtroom at the Yanny
25 trial and he asked Flynn to call ARMSTRONG and tell him that if he
26 testified in Yanny he would be in violation of the settlement
27 agreement and would be sued. ARMSTRONG had been present at the
28 Yanny trial March 5, 1990.

1 47. In early April, 1990 ARMSTRONG received a call from
2 ORG lawyer Eric Lieberman who threatened dire consequences if
3 ARMSTRONG continued to speak out against the ORG in violation of
4 the settlement agreement. ARMSTRONG related to Lieberman a list
5 of the ORG's post-settlement attacks on ARMSTRONG in violation
6 itself of the agreement. Lieberman dismissed ARMSTRONG's
7 grievances as insignificant.

8 48. On July 8, 1988 the Internal Revenue Service issued
9 a document entitled "final adverse ruling" to Cross-Defendant
10 herein COST denying its application for tax exempt status. In that
11 ruling the IRS stated:

12 "In support of the protest (protest conference was held
13 in January 1987) to our initial adverse ruling, we were
14 supplied with copies of affidavits dated December 4,
15 1986, from Gerald Armstrong and Laurel Sullivan. Ms.
16 Sullivan was the person in charge of the MCCS project
17 (the ORG's "Mission Corporate Category Sort-out," the
18 purpose of which was to devise a new organizational
19 structure to conceal L. Ron Hubbard's continued
20 control). The affidavits state that the new church
21 management 'seems to have returned to the basic and
22 lawful policies and procedures as laid out by the
23 founder of the religion, L. Ron Hubbard.' The
24 affidavits conclude as follows: 'Because of the
25 foregoing, I no longer have any conflict with the Church
26 of Scientology or individual members affiliated with the
27 Church. Accordingly I have executed a mutual release
28 agreement with the Church of Scientology and sign this

1 affidavit in order to signify that I have no quarrel
2 with the Church of Scientology or any of its members.'"
3 The ORG filed the ARMSTRONG affidavit in the COST case for the
4 purpose of destroying his credibility and in violation of the
5 representation the ORG had Flynn make to ARMSTRONG during
6 settlement that such affidavit would never be used unless
7 ARMSTRONG attacked the ORG after settlement. The ORG's filing of
8 the affidavit, its use of the courts, and the campaign to destroy
9 ARMSTRONG's reputation have caused ARMSTRONG great emotional
10 distress.

11 49. In August 1991 while in South Africa ARMSTRONG was
12 informed by Stuart Cutler, a lawyer for Malcolm Nothling,
13 litigant against the ORG, that the ORG had provided ARMSTRONG's
14 personal papers regarding the 1985 dream which had been sealed in
15 Armstrong I, to the ORG's South African legal representatives for
16 use against ARMSTRONG in the Nothling litigation in which
17 ARMSTRONG was expected to testify. The dissemination of this
18 document in South Africa caused ARMSTRONG great embarrassment and
19 emotional distress.

20 50. On August 12, 1991 the ORG filed a lawsuit against
21 17 agents of the IRS, case no. 91-4301-SVW in United States
22 District Court, Central District of California for more than
23 \$120,000,000.00. The ORG used therein a false rendition of the
24 1984 illegal videotaping of ARMSTRONG, which videotape had been
25 sealed in the Armstrong I court file. The ORG stated in its
26 complaint:

27 "The infiltration of the [ORG] was planned by the LA CID
28 along with former [ORG] member Gerald Armstrong, who

1 planned to seed [ORG] files with forged documents which
2 the IRS could then seize in a raid. The CID actually
3 planned to assist Armstrong in taking over the [ORG]
4 hierarchy which would then turn over all [ORG] documents
5 to the IRS for their investigation."

6 The ORG knew that these accusations were false, knew that
7 ARMSTRONG knew they were false.

8 51. Upon his return to the United States from South
9 Africa, Armstrong visited the law office of Ford Greene who asked
10 for his help. Armstrong, who is a trained paralegal, and lived in
11 the same Marin County town as Greene, agreed to help him, and has
12 been working with him from that time until the present. The moment
13 he began working in Greene's office the ORG began to terrorize him
14 with constant surveillance by ORG intelligence operatives,
15 videotaped him, embarrassed him, caused disturbances in the
16 neighborhood of Greene's law firm, and caused him great fear. The
17 ORG has a reputation of using its intelligence operatives or
18 private investigators to assault its perceived enemies, frame
19 them, entrap them, terrorize them, lie about them, and steal from
20 them. Judge Breckenridge in Armstrong I, had found that:

21 "Defendant Armstrong was the subject of harassment,
22 including being followed and surveilled by individuals
23 who admitted employment by [the ORG]; being assaulted by
24 one of these individuals; being struck bodily by a car
25 driven by one of these individuals; having two attempts
26 made by said individuals apparently to involve Defendant
27 Armstrong in a freeway automobile accident; having said
28 individuals come onto Defendant Armstrong's property,

1 spy in his windows, create disturbances, and upset his
2 neighbors."

3 The August 1991 surveillance of ARMSTRONG by ORG operatives
4 was intended to and caused ARMSTRONG severe shock and emotional
5 distress.

6 52. ARMSTRONG called and wrote to ORG lawyer Eric
7 Lieberman on August 21 and 22, 1991 protesting the surveillance,
8 videotaping and ORG terror tactics. Lieberman never responded,
9 but the ORG responded with renewed attacks on ARMSTRONG, filing
10 perjurious declarations about him in the Aznaran case accusing him
11 of, inter alia, being in Greene's office (during the period when
12 he had been in South Africa), of being employed by Joseph Yanny
13 while working for Greene, and of being Yanny's extension in the
14 Aznaran case. The ORG used these lies in a series of attempts to
15 have the Aznaran case dismissed, and in further attempts to
16 destroy ARMSTRONG's credibility and his capacity to defend himself
17 from the ORG's attacks. The ORG also filed perjurious
18 declarations in Aznaran concerning the illegal 1984 Armstrong
19 operation, claiming, inter alia, that the operation was a police-
20 sanctioned investigation, that ARMSTRONG was plotting against the
21 ORG and seeking out staff members who would be willing to assist
22 him in overthrowing its leadership, and that ARMSTRONG's theory of
23 litigation against the ORG was to fabricate the facts. These lies
24 were used in a series of attempts to deny the Aznarans justice and
25 to attack ARMSTRONG's credibility and leave him defenseless before
26 the ORG's assault. The ORG moreover used in these attempts
27 transcripts of the illegal 1984 videotaping of ARMSTRONG which had
28 been sealed in the Armstrong I court file. The ORG knew its lies

1 filed in the Aznaran case regarding ARMSTRONG were lies, knew it
2 was using sealed documents to attack ARMSTRONG, knew that such
3 caused ARMSTRONG great emotional distress, and knew that its acts
4 in Armstrong I had caused him emotional distress for which it had
5 paid ARMSTRONG a significant sum of money. The ORG's statements
6 filed in Aznaran regarding ARMSTRONG were malicious and an abuse
7 process. ARMSTRONG filed a declaration in Aznaran dated September
8 3, 1991 detailing the lies the ORG had up to that time filed about
9 him in that case and stating the truth of the matters. On June
10 23, 1992, Judge Ideman, presiding in the Aznaran case denied all
11 the ORG's motions in which it had filed its attacks on ARMSTRONG.

12 53. On October 3, 1991 the ORG, using CSC, CSI and RTC
13 as Plaintiffs, filed a motion in Los Angeles Superior Court in the
14 Armstrong I case to enforce the settlement agreement in which it
15 charged that ARMSTRONG's declaration in Aznaran which rebutted the
16 ORG's lies filed about him in that case was a violation of the
17 settlement agreement. That motion, in which the ORG sought from
18 ARMSTRONG \$100,000.00 in damages for his responses to ORG attacks,
19 was denied on December 23, 1991 by Judge Geernaert, who stated
20 during the hearing of that date:

21 " So my belief is Judge Breckenridge, being a very
22 careful judge, follows about the same practice and if he
23 had been presented that whole agreement and if he had
24 been asked to order its performance, he would have dug
25 his feet in because that is one of the [] most
26 ambiguous, one-sided agreements I have ever read. And I
27 would not have ordered the enforcement of hardly any of
28 the terms had I been asked to, even on the threat that,

1 okay the case is not settled.

2 I know we like to settle cases. But we don't want to
3 settle cases and, in effect, prostrate the court system
4 into making an order which is not fair or in the public
5 interest."

6 54. Heedless of Judge Geernaert's comments the ORG on
7 February 4, 1992 filed the underlying lawsuit, hereinafter
8 Armstrong II, this time seeking \$1,700,000.00 in damages. On
9 March 26, 1992 the ORG sought to have ARMSTRONG held in contempt
10 of court for communicating to the media about the litigation after
11 the ORG had itself given an interview to the media and in response
12 to the ORG's public comments about him. Judge Dufficy of the
13 Marin Superior Court, then presiding over the Armstrong II
14 litigation, refused to hear the ORG's effort to have ARMSTRONG
15 found in contempt. The effort, however, demonstrates the ORG's
16 intention: create a scenario in which ARMSTRONG responds to ORG
17 attacks and then have him jailed for his response. Then, pursuant
18 to ORG policy, neutralize him.

19 55. On February 19, 1992 Ford Greene, ARMSTRONG's
20 attorney in Armstrong II, wrote ORG attorney Laurie Bartilson
21 requesting that ARMSTRONG's former attorneys in Armstrong I,
22 Michael Flynn, Julia Dragojevic and Bruce Bunch, each of whom were
23 specifically prohibited by contract with the ORG from giving
24 ARMSTRONG a declaration to assist him in his defense of the ORG's
25 lawsuit to enforce the settlement agreement, be released from that
26 prohibition so they could provide him with needed declarations.
27 The ORG refused. On February 24, 1992 Greene wrote Bartilson
28 requesting that the other individuals who had entered into

1 settlement agreements with the ORG, negotiated by the ORG with
2 Flynn in 1986, and who were specifically prohibited from providing
3 ARMSTRONG with a declaration to assist him in his defense of the
4 ORG's lawsuit to enforce the settlement agreement, be released
5 from that prohibition so they could provide him with needed
6 declarations. Even though the ORG had used the fact of the other
7 individuals' settlement agreements being substantially similar to
8 the ARMSTRONG agreement, and cited to and relied on cases
9 involving those individuals' settlements in its lawsuit against
10 ARMSTRONG, the ORG refused to release them from their contract not
11 to assist ARMSTRONG.

12 56. On May 27, 1992 at a hearing on a motion the ORG
13 brought to obtain a preliminary injunction in this case, Los
14 Angeles Superior Court Judge Sohigian stated:

15 "The information that's being suppressed in this case,
16 however, is information about extremely blameworthy
17 behavior of the [ORG] which nobody owns; it is
18 information having to do with the behavior of a high
19 degree of offensiveness and behavior which is tortious
20 in the extreme. It involved abusing people who are weak.
21 It involves taking advantage of people who for one
22 reason or another get themselves enmeshed in this
23 extremist view in a way that makes them unable to resist
24 it apparently. There appears to be in the history of
25 [the ORG's] behavior a very, very substantial deviation
26 between [the ORG's] conduct and standards of ordinary,
27 courteous conduct and standards of ordinary honest
28 behavior. They're just way off in a different

1 firmament. [The ORG's] is the kind of behavior which
2 makes you sort of be sure you cut the deck and be sure
3 you've counted all the cards. If you're having a
4 friendly poker game you'd make sure to count all the
5 chips before you dealt any cards."

6 Despite these statements concerning the ORG and its practices, and
7 despite the ORG's knowledge of similar rulings and judgments in
8 Armstrong I, the case of Wollersheim v. Scientology, the case of
9 Allard v. Scientology, the case in England Re B & G Wards, the
10 cases of US v. Hubbard and US v. Kember, and of articles in the
11 Los Angeles Times in 1990 and Time magazine in 1991, the ORG
12 continues to attack ARMSTRONG and its other perceived enemies
13 pursuant to its basic doctrine of Fair Game. The ORG's refusal to
14 change its posture toward ARMSTRONG in the face of evidence of its
15 nature causes ARMSTRONG severe emotional distress. Judge Sohigian
16 denied the ORG's motion to enforce the settlement agreement in
17 every aspect except for his right to provide testimony in anti-ORG
18 litigation without being first subpoenaed to provide such
19 testimony. The Sohigian ruling left ARMSTRONG free to speak and
20 write freely about the ORG, to provide information to government
21 agencies without the need for a subpoena and to continue to work
22 as a paralegal.

23 57. ARMSTRONG has learned that MISCAVIGE possessed
24 ARMSTRONG's original artwork and manuscript after they were stolen
25 from ARMSTRONG's car in 1984. MISCAVIGE told Vicki Aznaran that
26 he had ARMSTRONG's artwork and manuscript, and he described
27 ARMSTRONG's works as weird poetry and letters to Hubbard. ORG
28 lawyer John Peterson in 1984, in response to ARMSTRONG's demand at

1 that time for return of his works denied that the ORG possessed
2 them. Now ARMSTRONG has the proof and he demands these works'
3 return.

4 58. The ORG has, for over a decade, waged a campaign of
5 hatred and psychological violence against ARMSTRONG. This
6 campaign has been observed and condemned by courts and the media.
7 In 1986 as an act of calculating Fair Game it used ARMSTRONG'S
8 lawyer, himself a long time target of Fair Game, to manipulate him
9 into a settlement of his claims against the ORG which was intended
10 to leave him lawyer-less and defenseless so that the ORG'S Fair
11 Game efforts against him could continue unopposed. In consummate
12 cynicism the ORG claims its purpose in the settlement was to make
13 peace. The ORG'S acts against ARMSTRONG have affected every
14 aspect of his life, taken from him the peace and seclusion he
15 sought and threatened his health, livelihood, friendships and his
16 very existence. These acts must stop.

17 FIRST CAUSE OF ACTION

18 (For Declaratory Relief Against All Defendants)

19 59. Cross-complainant ARMSTRONG realleges paragraphs 1
20 through 58, inclusive, and incorporates them by reference herein
21 as though fully set forth.

22 60. An actual controversy has arisen and now exists between
23 ARMSTRONG and CSI concerning their respective rights and duties in
24 that ARMSTRONG contends that the only provisions of the settlement
25 agreement that have any legal force any effect were those whereby
26 he dismissed his cross-complaint in Armstrong I in consideration
27 for a sum of money, and that paragraphs 4A, 4B, 7D, 7E, 7G, 7H,
28 7I, 10, 18D, 18E of the settlement agreement are void as against

1 public policy and should be severed therefrom, and that CSI and
2 its agents are not entitled to breach the settlement agreement
3 while requiring ARMSTRONG to adhere thereto, whereas CSI disputes
4 this contention and contends that it is entitled to enforce all
5 provisions of the settlement agreement against ARMSTRONG
6 notwithstanding the lack of mutuality thereof.

7 61. ARMSTRONG desires a judicial determination of his rights
8 and duties, and a declaration that the only provisions of the
9 settlement agreement which are valid are those which directly
10 pertain to the dismissal of his cross-complaint in Armstrong I in
11 consideration for the payment of a sum of money, and that
12 paragraphs 4A, 4B, 7D, 7E, 7G, 7H, 7I, 10, 18D, 18E of the
13 settlement agreement should be severed and held not to be legally
14 enforceable because they were designed to suppress evidence and
15 obstruct justice.

16 62. A judicial declaration is necessary and appropriate at
17 this time under the circumstances in order that ARMSTRONG may
18 ascertain his rights and duties under the settlement agreement.

19 63. ARMSTRONG is being harmed by the settlement agreement
20 insofar as his First Amendment Rights are curtailed, his ability
21 to freely pursue gainful employment is restricted, and his
22 reputation is being attacked in judicial proceedings which he is
23 unable to counter without risking violation of the settlement
24 agreement.

25 WHEREFORE, cross-complainant seeks relief as is hereinafter
26 pleaded.

27 SECOND CAUSE OF ACTION

28 (For Abuse Of Process Against All Defendants)

1 64. Cross-complainant ARMSTRONG realleges paragraphs 1
2 through 58, inclusive, and incorporates them by reference herein
3 as though fully set forth.

4 65. Defendants, and each of them, have abused the process of
5 this court in a wrongful manner, not proper in the regular conduct
6 of the proceedings in Armstrong I and in Armstrong II, and in
7 other litigation, to accomplish a purpose for which said
8 proceedings were not designed, specifically, the suppression of
9 evidence, the obstruction of justice, the assassination of cross-
10 complainant's reputation, and retaliation against said cross-
11 complainant for prevailing at trial in Armstrong I, all so as to
12 be able to attack cross-complainant and prevent cross-complainant
13 from being able to take any effective action to protect himself.

14 66. Defendants, and each of them, acted with an ulterior
15 motive to suppress evidence, obstruct justice, assassinate cross-
16 complainant's reputation, and to retaliate against cross-
17 complainant in said litigations.

18 67. That defendants, and each of them, have committed
19 willful acts of intimidation, threats, and submission of false and
20 confidential documents not authorized by the process of
21 litigation, and not proper in the regular conduct of litigation.

22 68. Cross-complainant has suffered damage, loss and harm,
23 including but not limited to his reputation, his emotional
24 tranquillity, and privacy.

25 69. That said damage, loss and harm was the proximate and
26 legal result of the use of such legal process.

27 **WHEREFORE**, cross-complainant seeks relief as is hereinafter
28 pleaded.

1 THIRD CAUSE OF ACTION

2 (Breach of Contract)

3 70. Cross-complainant ARMSTRONG realleges paragraphs 1
4 through 58, inclusive, and incorporates them by reference herein
5 as though fully set forth.

6 71. CSI, and/or its agents, and/or other Scientology-related
7 entities having engaged in on-going breaches of said settlement
8 agreement by making reference to ARMSTRONG (a) in communications
9 to the press, (b) in filing pleadings and declarations in various
10 litigations.

11 72. By reason of said breaches of the settlement agreement,
12 ARMSTRONG has been damaged in an amount not presently known but
13 believed to be in excess of the jurisdiction minimum of this
14 Court.

15 WHEREFORE, plaintiff prays for judgment as follows:

16 ON THE FIRST CAUSE OF ACTION

17 1. For a declaration paragraphs 4A, 4B, 7D, 7E, 7G, 7H, 7I,
18 10, 18D, 18E of the settlement agreement should be severed from
19 the settlement agreement and found to be of no legal force or
20 effect.

21 2. For damages according to proof.

22 3. For attorney's fees and costs of suit.

23 ON THE SECOND CAUSE OF ACTION

24 1. For general and compensatory damages according to proof.

25 2. For attorney's fees and costs of suit.

26 ON THE THIRD CAUSE OF ACTION

27 1. For compensatory and consequential damages according to
28 proof.

1 2. For attorney's fees and costs of suit.

2 ON ALL CAUSES OF ACTION

3 1. For such other and further relief as the Court may deem
4 just and proper.

5 Respectfully submitted,

6 DATED: October 7, 1992

HUB LAW OFFICES

7
8 By: 

FORD GREENE

Attorney for Defendant

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 PROOF OF SERVICE

2 I am employed in the County of Marin, State of California. I
3 am over the age of eighteen years and am not a party to the above
4 entitled action. My business address is 711 Sir Francis Drake
5 Boulevard, San Anselmo, California. I served the following
6 documents: CROSS-COMPLAINT FOR DECLARATORY RELIEF, ABUSE OF
7 PROCESS AND BREACH OF CONTRACT

8 on the following person(s) on the date set forth below, by placing
9 a true copy thereof enclosed in a sealed envelope with postage
10 thereon fully prepaid to be placed in the United States Mail at
11 San Anselmo, California:

12 Andrew Wilson, Esquire
13 WILSON, RYAN & CAMPILONGO
235 Montgomery Street, Suite 450
San Francisco, California 94104

LAURIE J. BARTILSON, ESQ.
Bowles & Moxon
6255 Sunset Boulevard
Suite 2000
Los Angeles, California 90028

14 PAUL MORANTZ, ESQ.
15 P.O. Box 511
16 Pacific Palisades, CA 90272

17 (By Mail) I caused such envelope with postage thereon
18 fully prepaid to be placed in the United
States Mail at San Anselmo, California.

19 (State) I declare under penalty of perjury under the
20 laws of the State of California that the above
is true and correct.

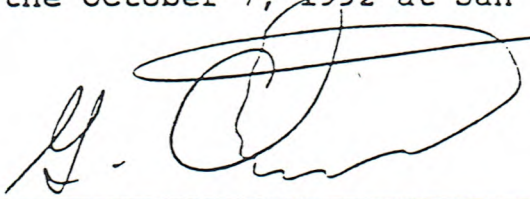
21 DATED: October 7, 1992



VERIFICATION

I, the undersigned, am an officer of defendant The Gerald Armstrong Corporation in the above entitled action. I know the contents of the foregoing Amended Cross-Complaint I certify that the same is true of my own knowledge, except as to the matters which are therein stated upon my information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct according to the laws of the State of California and that this declaration was executed on the October 7, 1992 at San Anselmo, California.

By: 
GERALD ARMSTRONG

PROOF OF SERVICE

I am employed in the County of Marin, State of California. I am over the age of eighteen years and am not a party to the above entitled action. My business address is 711 Sir Francis Drake Boulevard, San Anselmo, California. I served the following documents: VERIFIED AMENDED CROSS-COMPLAINT FOR DECLARATORY RELIEF, ABUSE OF PROCESS AND BREACH OF CONTRACT on the following person(s) on the date set forth below, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid to be placed in the United States Mail at San Anselmo, California:

Andrew Wilson, Esquire
WILSON, RYAN & CAMPILONGO
235 Montgomery Street, Suite 450
San Francisco, California 94104

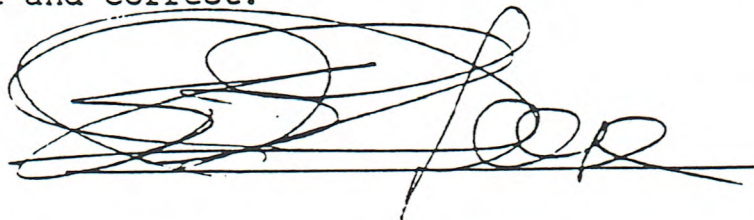
LAURIE J. BARTILSON, ESQ.
Bowles & Moxon
6255 Sunset Boulevard
Suite 2000
Los Angeles, California 90028

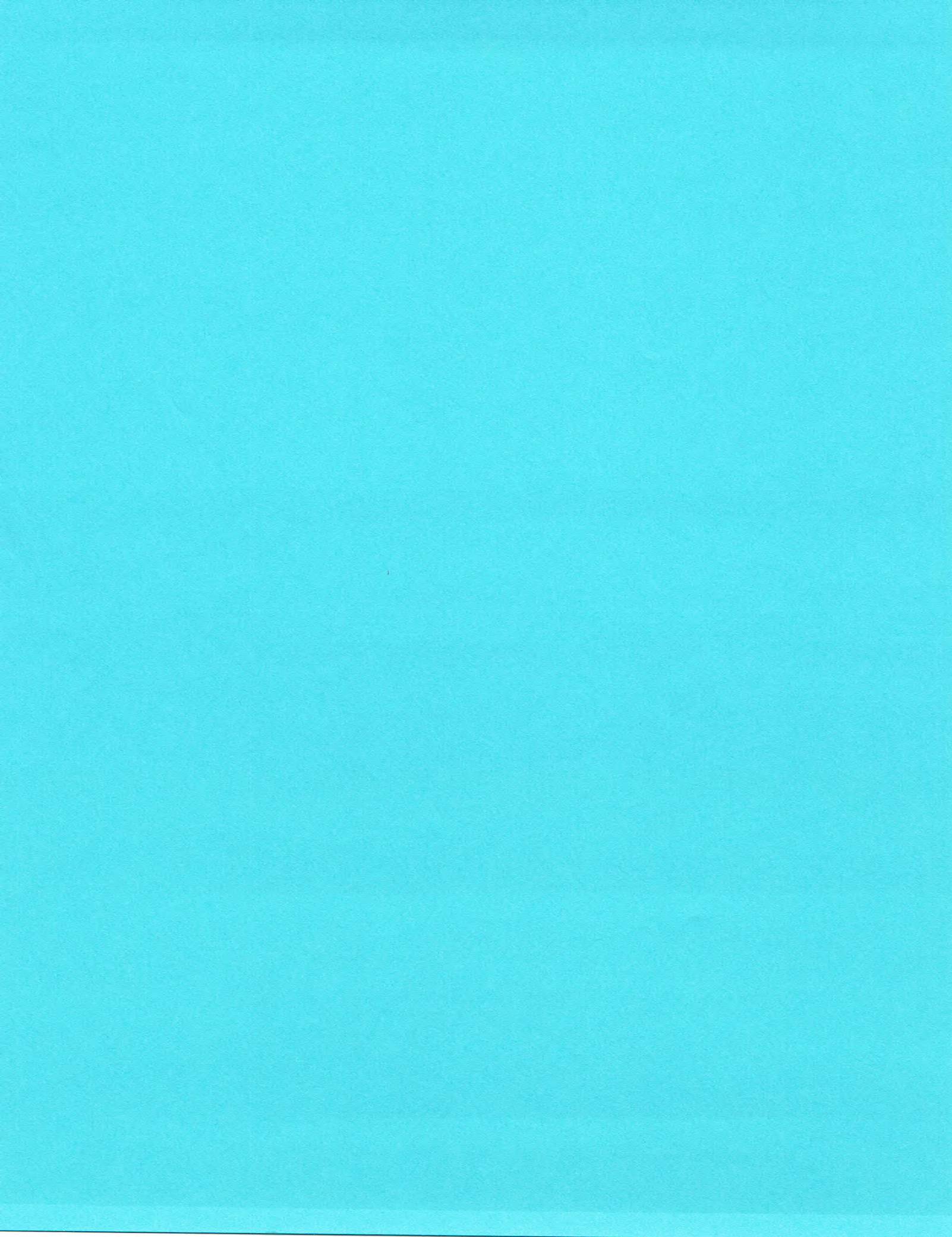
PAUL MORANTZ, ESQ.
P.O. Box 511
Pacific Palisades, CA 90272

[x] (By Mail) I caused such envelope with postage thereon fully prepaid to be placed in the United States Mail at San Anselmo, California.

[x] (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

DATED: October 7, 1992





1 Andrew H. Wilson
2 WILSON, RYAN & CAMPILONGO
3 235 Montgomery Street
4 Suite 450
5 San Francisco, California 94104
6 (415) 391-3900

7 Laurie J. Bartilson
8 BOWLES & MOXON
9 6255 Sunset Boulevard, Suite 2000
10 Hollywood, CA 90028
11 (213) 661-4030

12 Attorneys for Plaintiff
13 CHURCH OF SCIENTOLOGY INTERNATIONAL

[Handwritten signature]
JAMES H. DEWROSE, CLERK
BY LINA DEWROSE, DEPUTY

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 FOR THE COUNTY OF LOS ANGELES

16 CHURCH OF SCIENTOLOGY	)	CASE NO. BC 052395
17 INTERNATIONAL, a California)	
18 not-for-profit religious	)	VERIFIED ANSWER OF CROSS-
19 corporation,	)	DEFENDANT CHURCH OF
	)	SCIENTOLOGY INTERNATIONAL
20 Plaintiff,)	
21 vs.)	
)	
22 GERALD ARMSTRONG and DOES 1)	
23 through 25, inclusive,	)	DATE: None
	)	TIME: None
24 Defendants.	)	DEPT: 30
)	
	)	DISCOVERY CUTOFF: None
	)	MOTION CUTOFF: None
	)	TRIAL DATE: None

25 Defendant Church of Scientology International ("CSI"),
26 for itself only and for no others, answers the Verified Amended
27 Cross-Complaint in this action as follows:

- 28 1. Answering paragraph 1, CSI admits the allegation.
- 29 2. Answering paragraph 2, CSI admits that CSI, RTC and CSC
30 are non-profit religious corporations organized and existing
31 under the laws of the State of California, having principal
32 offices and conducting their affairs in the State of California

1 and within the territorial jurisdiction of this Court. CSI
2 admits that ASI is a corporation organized and existing under the
3 laws of the State of California, having its principle place of
4 business within the territorial jurisdiction of the Court. CSI
5 denies the remainder of the allegations in this paragraph.

6 3. Answering paragraph 3, CSI denies these allegations.

7 4. Answering paragraph 4, CSI admits the allegations in
8 this paragraph except to the extent said allegations state
9 conclusions of law to which no response is needed.

10 5. Answering paragraph 5, CSI admits the allegations in
11 this paragraph except to the extent said allegations state
12 conclusions of law to which no response is needed.

13 6. Answering paragraph 6, CSI denies the allegations in
14 this paragraph except to the extent said allegations state
15 conclusions of law to which no response is needed.

16 7. Answering paragraph 7, CSI denies the allegations in
17 this paragraph except to the extent said allegations state
18 conclusions of law to which no response is needed.

19 8. Answering paragraph 8, CSI denies the allegations in
20 this paragraph except to the extent said allegations state
21 conclusions of law to which no response is needed. Further, CSI
22 denies that any entity or group of corporations fitting the
23 description of "ORG", as defined in this paragraph of the Cross-
24 Complaint, exists.

25 9. Answering paragraph 9, CSI denies the allegations in
26 this paragraph except to the extent said allegations state
conclusions of law to which no response is needed.

28 10. Answering paragraph 10, CSI denies the allegations in

1 this paragraph except to the extent said allegations state
2 conclusions of law to which no response is needed.

3 11. Answering paragraph 11, CSI denies the allegations in
4 this paragraph.

5 12. Answering paragraph 12, CSI denies the allegations in
6 this paragraph except to the extent said allegations state
7 conclusions of law to which no response is needed.

8 13. Answering paragraph 13, CSI admits that Armstrong was
9 declared a "Suppressive Person"; that CSC filed a lawsuit, No. C
10 420153, against Armstrong in Los Angeles Superior Court on August
11 2, 1982; that Armstrong filed a cross-complaint in that action on
12 September 17, 1982 and a Third Amended Cross-Complaint on July 1,
13 1983; that the complaint and cross-complaint were bifurcated and
14 the complaint tried without a jury in 1984; that Judge Paul G.
15 Breckenridge issued a Memorandum of Intended Decision on June 20,
16 1984 and which he entered as a Judgement on August 10, 1984. CSI
17 denies all other allegations in this paragraph except to the
18 extent said allegations state conclusions of law to which no
19 response is needed.

20 14. Answering paragraph 14, CSI admits that Michael J.
21 Flynn acted an attorney for Gerald Armstrong during a portion of
22 the 1980s and that Flynn was actively involved in encouraging
23 litigation against Churches of Scientology. CSI denies all other
24 allegations in this paragraph except to the extent said
25 allegations state conclusions of law to which no response is
26 needed.

27 15. Answering paragraph 15, CSI admits that settlement
28 negotiations to resolve the litigation in which Flynn was acting

1 as counsel of record for parties opposing CSI and other Churches
2 of Scientology did occur in 1986. CSI is without sufficient
3 information or belief to admit or deny the remaining allegations
4 in this paragraph. Based on this lack of information or belief,
5 CSI denies all remaining allegations in this paragraph.

6 16. Answering paragraph 16, CSI is without sufficient
7 information or belief to admit or deny the allegations in this
8 paragraph. Based on this lack of information or belief, CSI
9 denies the allegations in this paragraph except to the extent
10 said allegations state conclusions of law to which no response is
11 needed.

12 17. Answering paragraph 17, CSI is without sufficient
13 information or belief to admit or deny the allegations in this
14 paragraph. Based on this lack of information or belief, CSI
15 denies the allegations in this paragraph except to the extent
16 said allegations state conclusions of law to which no response is
17 needed.

18 18. Answering paragraph 18, CSI is without sufficient
19 information or belief to admit or deny the allegations in this
20 paragraph. Based on this lack of information or belief, CSI
21 denies the allegations in this paragraph except to the extent
22 said allegations state conclusions of law to which no response is
23 needed.

24 19. Answering paragraph 19, CSI is without sufficient
25 information or belief to admit or deny the allegations in this
26 paragraph. Based on this lack of information or belief, CSI
27 denies the allegations in this paragraph except to the extent
28 said allegations state conclusions of law to which no response is

1 needed.

2 20. Answering paragraph 20, CSI admits that Armstrong
3 signed a settlement agreement and that this signing was
4 videotaped. CSI states that no Exhibit A is attached to the
5 verified amended cross-complaint which was served on CSI on or
6 about October 7, 1992 and therefore denies that Exhibit A is a
7 true and correct copy of the settlement agreement signed by
8 Armstrong. CSI is without sufficient information or belief to
9 admit or deny the remaining allegations in this paragraph. Based
10 on this lack of information or belief, CSI denies all other
11 allegations in this paragraph.

12 21. Answering paragraph 21, CSI admits that on December 11,
13 1986 Judge Breckenridge issued orders dismissing the
14 Cross-Complaint of Gerald Armstrong, directing that the
15 settlement agreement be filed and retained by the clerk under
16 seal, and sealing the entire Court file of the case. CSI denies
17 all remaining allegations in this paragraph except to the extent
18 said allegations state conclusions of law to which no response is
19 needed.

20 22. Answering paragraph 22, CSI admits the allegations in
21 this paragraph.

22 23. Answering paragraph 23, except as to legal conclusions
23 to which CSI is not required to respond, CSI admits that a
24 Petition for Rehearing of the Armstrong I appeal was filed with
25 the California Court of Appeal and was denied on January 15,
26 1987. CSI further admits that a Petition for Review was filed
27 with the California Supreme Court and denied on March 11, 1987;
28 that an "Unopposed Motion to Withdraw Memorandum of Intended

1 Decision" was filed in Los Angeles Superior Court and denied by
2 Judge Breckenridge on February 2, 1987; and that a Notice of
3 Appeal was filed on February 9, 1987, also in the Armstrong I
4 case. CSI denies all remaining allegations in this paragraph
5 except to the extent said allegations state conclusions of law to
6 which no response is needed.

7 24. Answering paragraph 24, CSI denies the allegations in
8 this paragraph except to the extent said allegations state
9 conclusions of law to which no response is needed.

10 25. Answering paragraph 25, CSI denies the allegations in
11 this paragraph except to the extent said allegations state
12 conclusions of law to which no response is needed.

13 26. Answering paragraph 26, CSI admits that in or around
14 the Fall of 1987 it distributed a document regarding a book
15 written by Bent Corydon and that said document contained
16 information about the background of Gerald Armstrong and about
17 his alleged research into matters pertaining to L. Ron Hubbard
18 and the Church of Scientology. CSI denies that the statements in
19 said document were false. CSI denies that the statements in the
20 document, the document itself, and/or the distribution of the
21 document were in violation of the letter and spirit of CSI's
22 December, 1986 settlement agreement with Armstrong. CSI is
23 without sufficient information or belief to admit or deny the
24 remaining allegations in this paragraph. Based on this lack of
25 information or belief, CSI denies all other allegations in this
26 paragraph except to the extent said allegations state conclusions
27 of law to which no response is needed.

28 27. Answering paragraph 27, CSI admits that Armstrong

1 retained documents in violation of a Los Angeles Superior Court
2 order and violated court sealing orders. CSI further admits
3 Armstrong has admitted to being an agent provocateur of the U.S.
4 Federal Government, that Armstrong planned to plant forged
5 documents in Church files so that they might be "found" by
6 federal officials and used in subsequent investigations as
7 evidence of criminal activity. CSI denies that it filed any
8 affidavits in the Miller litigation. CSI is without sufficient
9 information or belief to admit or deny the remaining allegations
10 in this paragraph. Based on this lack of information or belief,
11 CSI denies the remaining allegations in this paragraph except to
12 the extent said allegations state conclusions of law to which no
13 response is needed.

14 28. Answering paragraph 28, CSI admits that the settlement
15 agreement signed by Armstrong contains a liquidated damages
16 clause for \$50,000 for specified breaches of that agreement. CSI
17 denies that it filed affidavits in the Miller litigation. CSI is
18 without sufficient information or belief to admit or deny the
19 remaining allegations in this paragraph. Based on this lack of
20 information or belief, CSI denies these allegations except to the
21 extent said allegations state conclusions of law to which no
22 response is needed.

23 29. Answering paragraph 29, CSI denies the allegations in
24 this paragraph except to the extent said allegations state
25 conclusions of law to which no response is needed.

26 30. Answering paragraph 30, CSI denies the allegations in
27 this paragraph except to the extent said allegations state
28 conclusions of law to which no response is needed.

1 31. Answering paragraph 31, CSI denies the allegations in
2 this paragraph except to the extent said allegations state
3 conclusions of law to which no response is needed.

4 32. Answering paragraph 32, CSI denies the allegations in
5 this paragraph except to the extent said allegations state
6 conclusions of law to which no response is needed.

7 33. Answering paragraph 33, CSI admits that Larry Heller
8 called Gerald Armstrong on or about October 23, 1989. CSI denies
9 the remaining allegations in this paragraph except to the extent
10 said allegations state conclusions of law to which no response is
11 needed.

12 34. Answering paragraph 34, CSI denies the allegations in
13 this paragraph except to the extent said allegations state
14 conclusions of law to which no response is needed.

15 35. Answering paragraph 35, CSI denies the allegations in
16 this paragraph except to the extent said allegations state
17 conclusions of law to which no response is needed.

18 36. Answering paragraph 36, CSI admits that on November 1,
19 1989 Larry Heller filed a Motion of Defendant ASI to Delay or
20 Prevent the Taking of Certain Third Party Depositions. CSI
21 denies all remaining allegations in this paragraph except to the
22 extent said allegations state conclusions of law to which no
23 response is needed.

24 37. Answering paragraph 37, CSI denies the allegations in
25 this paragraph except to the extent said allegations state
26 conclusions of law to which no response is needed.

27 38. Answering paragraph 38, CSI denies the allegations in
28 this paragraph except to the extent said allegations state

1 conclusions of law to which no response is needed.

2 39. Answering paragraph 39, CSI denies the allegations in
3 this paragraph except to the extent said allegations state
4 conclusions of law to which no response is needed.

5 40. Answering paragraph 40, CSI denies the allegations in
6 this paragraph except to the extent said allegations state
7 conclusions of law to which no response is needed.

8 41. Answering paragraph 41, CSI admits that Appellants'
9 Opening Brief in the appeal of the 1984 decision in Armstrong I
10 was filed on December 21, 1989 in Division Three of the Second
11 Appellate District of the California Court of Appeal (No.
12 B025920). Further, CSI admits that the Church of Scientology of
13 California filed appellate papers in Church of Scientology of
14 California and Mary Sue Hubbard, Appellants, against Gerald
15 Armstrong, Defendant; Bent Corydon, Appellee, No. B038975. CSI
16 denies the remaining allegations in this paragraph except to the
17 extent said allegations state conclusions of law to which no
18 response is needed.

19 42. Answering paragraph 42, CSI denies the allegations in
20 this paragraph except to the extent said allegations state
21 conclusions of law to which no response is needed.

22 43. Answering paragraph 43, CSI admits that Armstrong's
23 declaration of March 15, 1990 was filed by Corydon with the Court
24 of Appeal. CSI denies all other allegations in this paragraph
25 except to the extent said allegations state conclusions of law to
26 which no response is needed.

27 44. Answering paragraph 44, CSI admits that Larry Heller
28 filed a declaration of March 27, 1990 in the Corydon litigation.,

1 CSI denies all other allegations in this paragraph except to the
2 extent said allegations state conclusions of law to which no
3 response is needed.

4 45. Answering paragraph 45, CSI denies the allegations in
5 this paragraph except to the extent said allegations state
6 conclusions of law to which no response is needed.

7 46. Answering paragraph 46, CSI is without sufficient
8 information to admit or deny the allegations in this paragraph.
9 Based on this lack of information, CSI denies the allegations in
10 this paragraph.

11 47. Answering paragraph 47, CSI denies the allegations in
12 this paragraph except to the extent said allegations state
13 conclusions of law to which no response is needed.

14 48. Answering paragraph 48, CSI admits that the Internal
15 Revenue Service issued a document entitled "final adverse ruling"
16 on July 8, 1988. CSI denies the remaining allegations in this
17 paragraph except to the extent said allegations state conclusions
18 of law to which no response is needed.

19 49. Answering paragraph 49, CSI is without sufficient
20 information to admit or deny the allegations in this paragraph.
21 Based on this lack of information, CSI denies the allegations in
22 this paragraph except to the extent said allegations state
23 conclusions of law to which no response is needed.

24 50. Answering paragraph 50, CSI admits that it and several
25 other Church corporations filed a lawsuit in the United States
26 District Court on August 12, 1991, which lawsuit was assigned the
27 case number, 91-4301-SVW. CSI denies all remaining allegations
28 in this paragraph except to the extent said allegations state

1 conclusions of law to which no response is needed.

2 51. Answering paragraph 51, CSI denies the allegations in
3 this paragraph except to the extent said allegations state
4 conclusions of law to which no response is needed.

5 52. Answering paragraph 52, CSI denies the allegations in
6 this paragraph except to the extent said allegations state
7 conclusions of law to which no response is needed.

8 53. Answering paragraph 53, CSI denies the allegations in
9 this paragraph except to the extent said allegations state
10 conclusions of law to which no response is needed.

11 54. Answering paragraph 54, CSI denies the allegations in
12 this paragraph except to the extent said allegations state
13 conclusions of law to which no response is needed.

14 55. Answering paragraph 55, CSI denies the allegations in
15 this paragraph except to the extent said allegations state
16 conclusions of law to which no response is needed.

17 56. Answering paragraph 56, CSI denies the allegations in
18 this paragraph except to the extent said allegations state
19 conclusions of law to which no response is needed.

20 57. Answering paragraph 57, CSI denies the allegations in
21 this paragraph except to the extent said allegations state
22 conclusions of law to which no response is needed.

23 58. Answering paragraph 58, CSI denies the allegations in
24 this paragraph except to the extent said allegations state
25 conclusions of law to which no response is needed.

26 RESPONSE TO FIRST CAUSE OF ACTION

27 (For Declaratory Relief Against All Defendants)

28 59. Answering paragraph 59, CSI realleges and incorporates

1 by reference the admissions, allegations and denials in
2 paragraphs 1 through 58 of this Answer.

3 60. Answering paragraph 60, CSI denies the allegations in
4 this paragraph except to the extent said allegations state
5 conclusions of law to which no response is needed.

6 61. Answering paragraph 61, CSI denies the allegations in
7 this paragraph except to the extent said allegations state
8 conclusions of law to which no response is needed.

9 62. Answering paragraph 62, CSI states that an initial
10 judicial declaration of Armstrong's rights and duties under the
11 settlement has already been issued by Judge Sohigian on May 28,
12 1992 when he granted the Preliminary Injunction sought by CSI.
13 CSI admits that a judicial determination of Armstrong's rights
14 and duties under the settlement is appropriate pursuant to the
15 allegations contained in CSI's First Amended Complaint herein.

16 63. Answering paragraph 63, CSI denies the allegations in
17 this paragraph except to the extent said allegations state
18 conclusions of law to which no response is needed.

19 RESPONSE TO SECOND CAUSE OF ACTION

20 (For Abuse of Process Against All Defendants)

21 64. Answering paragraph 64, CSI realleges and incorporates
22 by reference the admissions, allegations and denials in
23 paragraphs 1 through 58 of this Answer.

24 65. Answering paragraph 65, CSI denies the allegations in
25 this paragraph except to the extent said allegations state
26 conclusions of law to which no response is needed.

27 66. Answering paragraph 66, CSI denies the allegations in
28 this paragraph except to the extent said allegations state

1 conclusions of law to which no response is needed.

2 67. Answering paragraph 67, CSI denies the allegations in
3 this paragraph except to the extent said allegations state
4 conclusions of law to which no response is needed.

5 68. Answering paragraph 68, CSI denies the allegations in
6 this paragraph except to the extent said allegations state
7 conclusions of law to which no response is needed.

8 69. Answering paragraph 69, CSI denies the allegations in
9 this paragraph except to the extent said allegations state
10 conclusions of law to which no response is needed.

11 RESPONSE TO THIRD CAUSE OF ACTION

12 (Breach of Contract)

13 70. Answering paragraph 70, CSI realleges and incorporates
14 by reference the admissions, allegations and denials in
15 paragraphs 1 through 58 of this Answer.

16 71. Answering paragraph 71, CSI notes that this sentence is
17 incomplete and grammatically meaningless. Notwithstanding the
18 foregoing, CSI denies the allegations in this paragraph except to
19 the extent said allegations state conclusions of law to which no
20 response is needed.

21 72. Answering paragraph 72, CSI denies the allegations in
22 this paragraph except to the extent said allegations state
23 conclusions of law to which no response is needed.

24 AFFIRMATIVE DEFENSES

25 FIRST AFFIRMATIVE DEFENSE

26 (Failure to State a Cause of Action

27 Upon Which Relief May Be Granted)

28 73. The Cross-Complaint, and each and every cause of action

1 therein, fails to state facts sufficient to constitute a Cause of
2 Action against CSI.

3 SECOND AFFIRMATIVE DEFENSE

4 (Waiver)

5 74. Cross-Claimant has waived all rights, if any he ever
6 had, to any and all recovery sought by the Cross-Complaint.

7 THIRD AFFIRMATIVE DEFENSE

8 (Necessity)

9 75. Any alleged acts, conduct, omissions or statements by
10 CSI were undertaken as a result of necessity.

11 FOURTH AFFIRMATIVE DEFENSE

12 (Justification)

13 76. Any alleged acts, conduct, omissions or statements by
14 CSI were justified.

15 FIFTH AFFIRMATIVE DEFENSE

16 (Statute of Limitations)

17 77. The Cross-Complaint, and each and every cause of action
18 therein, is barred by the applicable statutes of limitations,
19 including, without limitation, California Code of Civil Procedure
20 §§ 337(1), 338(a), 338(b), 338(d), 339(1), 340(1), 340(3) and
21 343.

22 SIXTH AFFIRMATIVE DEFENSE

23 (Estoppel)

24 78. Cross-Complainant is estopped by his own conduct to
25 assert any purported cause of action against CSI.

26 SEVENTH AFFIRMATIVE DEFENSE

27 (Privilege)

28 79. Any alleged acts, conduct, omissions or statements by

1 CSI were privileged by the rights of free exercise of religion
2 and freedom from establishment of religion guaranteed by the
3 First Amendment to the United States Constitution and by Article
4 IV of the California Constitution.

5 EIGHTH AFFIRMATIVE DEFENSE

6 (Privilege)

7 80. Any alleged acts, conduct, omissions, or statements by
8 CSI were privileged by the right of free speech and free
9 expression guaranteed by the First Amendment to the United States
10 Constitution and by Article IV of the California Constitution.

11 NINTH AFFIRMATIVE DEFENSE

12 (Laches)

13 81. Cross-Complainant is barred by the doctrine of laches
14 from asserting any purported cause of action against CSI.

15 TENTH AFFIRMATIVE DEFENSE

16 (Unclean Hands)

17 82. Cross-Complainant is barred by the doctrine of unclean
18 hands from asserting any purported cause of action against CSI.

19 ELEVENTH AFFIRMATIVE DEFENSE

20 (Speculative Nature of Damages)

21 83. The damages Cross-Complainant purports to have
22 suffered, if any, are entirely speculative, insupportable by
23 admissible evidence and incapable of proof.

24 TWELFTH AFFIRMATIVE DEFENSE

25 (Failure to Mitigate)

26 84. The damages Cross-Complainant purports to have
27 suffered, if any, are unavailable to the extent that Cross-
28 Complainant has failed and refused to mitigate such damages.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

THIRTEENTH AFFIRMATIVE DEFENSE

(Assumption of Risk)

85. Cross-Complainant at all times, voluntarily, knowingly and willingly assumed any and all risk arising from the matters alleged in the Cross-Complaint. Any and all claimed "injuries" or damages were solely, directly and proximately caused by Cross-Complainant's own conduct.

FOURTEENTH AFFIRMATIVE DEFENSE

(Release)

86. Cross-Complainant has released any and all claims and causes of action arising from the matters alleged in the Cross-Complaint.

FIFTEENTH AFFIRMATIVE DEFENSE

(Punitive Damages Barred)

87. As to any and all of Cross-Complainant's claims for punitive damages, Cross-Complainant is barred from bringing such claims as he has failed to comply with the provisions of California Civil Code §§ 3294(b), and California Civil Procedure Code §435.10(b).

///
///
///

SIXTEENTH AFFIRMATIVE DEFENSE

(Punitive Damages Unconstitutional)

88. Any and all claims by Cross-Complainant for punitive damages are barred by and are unconstitutional under various provisions of the United States and California Constitutions, including without limitation the First, Fifth, Eighth and Fourteenth Amendments to the United States Constitution.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SEVENTEENTH AFFIRMATIVE DEFENSE

(Acts or Omissions of Third Parties)

89. Cross-Complainant's claims and any recovery against CSI are barred in whole or in part for the reason that the injuries and damages claimed, if any, were caused by the negligence, recklessness, other wrongful conduct and/or other causal fault on the part of persons and/or entities other than CSI and over whom CSI has no control, which constitutes supervening, superseding or intervening causes for which CSI is not liable. In the event any judgment or recovery is had against CSI by Cross-Complainant, CSI is entitled to reduction of such judgment or recovery in direct proportion to the percentage of comparative fault attributable to Cross-Complainant.

EIGHTEENTH AFFIRMATIVE DEFENSE

(Good Faith)

90. CSI acted reasonably and in good faith at all times relevant herein and based on all relevant facts and circumstances known by it at the time so acted; accordingly, Cross-Complainant is barred from recovery for this action and each purported claim asserted therein.

///

NINETEENTH AFFIRMATIVE DEFENSE

(Lack of Reciprocity)

91. Cross-Complainant's claims and any recovery against CSI are barred in whole or in part for the reason that the actions taken by CSI are not prohibited by any contract or undertaking with Cross-Complainant as any such contract or undertaking entered into by CSI and Cross-Complainant specifically included a

1 statement that obligations incurred were not reciprocally binding
2 on all parties.

3 TWENTIETH AFFIRMATIVE DEFENSE

4 (Fraud and Deceit)

5 92. Cross-Complainant is barred from bringing this action
6 against CSI because of his fraud and deceit in representing to
7 CSI that he freely entered into the settlement agreement, without
8 duress or reservation, when he had no intention of performing his
9 portion of the agreement and, by his own admissions in this
10 cross-complaint, believed the agreement to be invalid. CSI
11 relied on Armstrong's representations that he would fully perform
12 the settlement agreement and paid to Armstrong a substantial
13 settlement in reliance thereon.

14 TWENTY-FIRST AFFIRMATIVE DEFENSE

15 (Privilege)

16 93. The use of the process which Cross-Complainant claims
17 was abused were publications made in the course of the
18 proceedings before the Court and thus were absolutely privileged
19 under Section 47(2) of the Civil Code.

20 ///

21 ///

22 TWENTY-SECOND AFFIRMATIVE DEFENSE

23 (No Malice Present Where Defendant Has Acted on Advice
24 of His Attorney - No Liability for Punitive Damages)

25 94. All of the actions allegedly taken by CSI which Cross-
26 Complainant claims were an abuse of process were taken after CSI
27 fully disclosed all of the relevant facts to its attorneys and
28 was advised to follow the legal procedures complained of in

1 Cross-Complainant's cause of action for abuse of process.
2 Therefore, CSI is not liable for punitive damages as alleged by
3 Cross-Complainant.

4 WHEREFORE, CSI prays for relief as follows:

5 1. That Cross-Complainant take nothing by virtue of his
6 Cross-Complaint and that the Cross-Complaint be dismissed with
7 prejudice.

8 2. That CSI recover its costs of suit herein; and

9 3. That the Court award such further relief as it may deem
10 proper.

11 DATED: January 19, 1993

Respectfully submitted,
BOWLES & MOXON

12
13
14 By: Laurie J. Bartilson #3
Laurie Bartilson

15
16 Andrew H. Wilson
WILSON, RYAN & CAMPILONGO
17 Attorneys for Cross-Complainant
CHURCH OF SCIENTOLOGY INTERNATIONAL
18
19
20
21
22
23
24
25
26
27
28

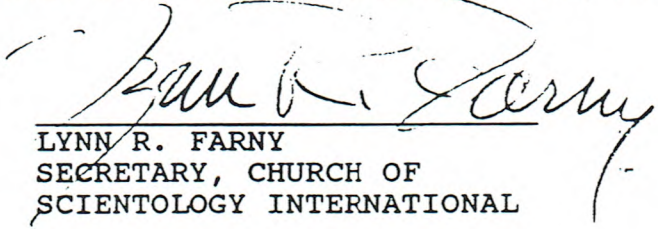
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

VERIFICATION

I, Lynn R. Farny, am the Secretary of the Church of Scientology International, a cross-defendant in this action. I have read the foregoing VERIFIED ANSWER OF CROSS-DEFENDANT CHURCH OF SCIENTOLOGY INTERNATIONAL and know the content thereof.

The same is true of my own knowledge, except as to those matters which are therein stated on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 19th day of January, 1993, at Los Angeles, California.


LYNN R. FARNY
SECRETARY, CHURCH OF
SCIENTOLOGY INTERNATIONAL

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 6255 Sunset Blvd., Suite 2000, Hollywood, California 90028.

On January 19, 1993, I served the foregoing document described as VERIFIED ANSWER OF CROSS-DEFENDANT CHURCH OF SCIENTOLOGY INTERNATIONAL on interested parties in this action,

[] by placing the true copies thereof in sealed envelopes as stated on the attached mailing list;

[X] by placing [] the original [X] a true copy thereof in sealed envelopes addressed as follows:

FORD GREENE
HUB Law Offices
711 Sir Francis Drake Boulevard
San Anselmo, CA 9490-1949

PAUL MORANTZ
P.O. Box 511
Pacific Palisades, CA 90272

[X] BY MAIL

[] *I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

[X] As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of party served, service is

presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on January 19, 1993 at Los Angeles, California.

[] **** (BY PERSONAL SERVICE)** I delivered such envelope by hand to the offices of the addressee.

Executed on _____, 1993, at Los Angeles, California.

[X] (State) I declare under penalty of the laws of the State of California that the above is true and correct.

[] (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Paul Bradford

Type or Print Name



Signature

* (By Mail, signature must be of person depositing envelope in mail slot, box or bag)

** (For personal service signature must be that of messenger)

THE DOCUMENT TO WHICH THIS CERTIFICATE IS
ATTACHED IS A FULL, TRUE, AND CORRECT COPY
OF THE ORIGINAL ON FILE AND OF RECORD IN
MY OFFICE.

JAN 04 1994

ATTEST _____

EDWARD M. KRITZMAN

Executive Officer/Clerk of the Superior
Court of California, County of Los Angeles.

By _____, Deputy

H. PEREZ

ORIGINAL FILED

MAR 03 1993

LOS ANGELES
SUPERIOR COURT

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Andrew H. Wilson
Linda M. Fong
WILSON, RYAN & CAMPILONGO
235 Montgomery Street
Suite 450
San Francisco, California 94104
(415) 391-3900

Laurie J. Bartilson
BOWLES & MOXON
6255 Sunset Boulevard
Suite 2000
Hollywood, California 90028
(213) 661-4030

Attorneys for Plaintiff
and Cross-Defendant
CHURCH OF SCIENTOLOGY INTERNATIONAL

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

CHURCH OF SCIENTOLOGY)
INTERNATIONAL, a California)
not-for-profit religious)
corporation;)
Plaintiff,)
vs.)
GERALD ARMSTRONG; DOES 1)
through 25, inclusive,)
Defendants.)
AND RELATED CROSS-ACTION.)

Case No. BC 052395
NOTICE OF MOTION AND
MOTION BY CROSS-DEFENDANT
CHURCH OF SCIENTOLOGY
INTERNATIONAL FOR SUMMARY
ADJUDICATION OF THE SECOND
AND THIRD CAUSES OF ACTION
OF THE CROSS-COMPLAINT
Dept.: 30
Date: March 31, 1993
Time: 8:30 a.m.
Trial Date: May 3, 1993
Disc. Cut-Off: April 2, 1993
Mtn Cut-Off: April 19, 1993

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on March 31, 1993 at 8:30 a.m. in
Department 30 of the above entitled Court, Cross-Defendant Church
of Scientology International (the "Church") will move for an
order adjudicating that the Second and Third Causes of Action of

1 the Verified Amended Cross-Complaint of defendant and cross-
2 complainant Gerald Armstrong ("Armstrong") (for Abuse of Process
3 and Breach of Contract) should be adjudicated in favor of the
4 Church as a matter of law pursuant to Code of Civil Procedure
5 §437c(f).

6 This motion is made on the grounds that (1) there is no
7 provision in the subject Settlement Agreement which prohibits the
8 Church from doing those acts which allegedly constitute breach of
9 the Settlement Agreement; (2) most of Armstrong's claims for
10 abuse of process are barred by the statute of limitations; and
11 (3) the remaining acts of which Armstrong complains are, as a
12 matter of law, insufficient to state a claim for abuse of
13 process.

14 This motion is based on this Notice, the accompanying
15 Memorandum of Points and Authorities, the Church's Separate
16 Statement of Undisputed Facts in Support of Motion for Summary
17 Adjudication of Issues, the Declaration of Andrew H. Wilson, the
18 records and other documents on file in this action, and on all
19 other matters that may be adduced at the hearing of this Motion.

20 Dated: March 3, 1993

WILSON, RYAN & CAMPILONGO

21
22 BY: 15/
ANDREW H. WILSON

23 Laurie J. Bartilson
24 BOWLES & MOXON

25 Attorneys for Cross-
26 Defendant
CHURCH OF SCIENTOLOGY
INTERNATIONAL

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 6255 Sunset Blvd., Suite 2000, Hollywood, California 90028.

On March 3, 1993, I served the foregoing document described as NOTICE OF MOTION AND MOTION BY CROSS-DEFENDANT CHURCH OF SCIENTOLOGY INTERNATIONAL FOR SUMMARY ADJUDICATION OF THE SECOND AND THIRD CAUSES OF ACTION OF THE CROSS-COMPLAINT on interested parties in this action by

[] placing the true copies thereof in sealed envelopes as stated on the attached mailing list;

[X] placing [] the original [X] a true copy thereof in sealed envelopes addressed as follows:

Paul Morantz
P.O. Box 511
Pacific Palisades, CA 90272

[] BY MAIL

[] *I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

[X] As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on _____, 1993, at Los Angeles, California.

[X] **(BY PERSONAL SERVICE) I delivered such envelope by hand to the offices of the addressee.

Executed on March 3, 1993, at Los Angeles, California.

[X] (State) I declare under penalty of the laws of the State of California that the above is true and correct.

[] (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Type or Print Name

Signature

* (By Mail, signature must be of person depositing envelope in mail slot, box or bag)

** (For personal service signature must be that of messenger)

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 6255 Sunset Blvd., Suite 2000, Hollywood, California 90028.

On MARCH 3, 1993, I served the foregoing document described as NOTICE OF MOTION AND MOTION BY CROSS-DEFENDANT CHURCH OF SCIENTOLOGY INTERNATIONAL FOR SUMMARY ADJUDICATION OF THE THE SECOND AND THIRD CAUSES OF ACTION OF THE CROSS-COMPLAINT on interested parties in this action by

- [] placing the true copies thereof in sealed envelopes as stated on the attached mailing list;
- [X] placing [] the original [X] a true copy thereof in sealed envelopes addressed as follows:

Ford Greene
HUB Law Offices
711 Sir Francis Drake Boulevard
San Anselmo, CA 94960-1949

By U.S. Mail & Fax

[X] BY MAIL

- [] *I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.
- [X] As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on March 3, 1993, at Los Angeles, California.

[] **** (BY PERSONAL SERVICE)** I delivered such envelope by hand to the addressee.

Executed on _____, 1993, at Los Angeles, California.

[X] (State) I declare under penalty of the laws of the State of California that the above is true and correct.

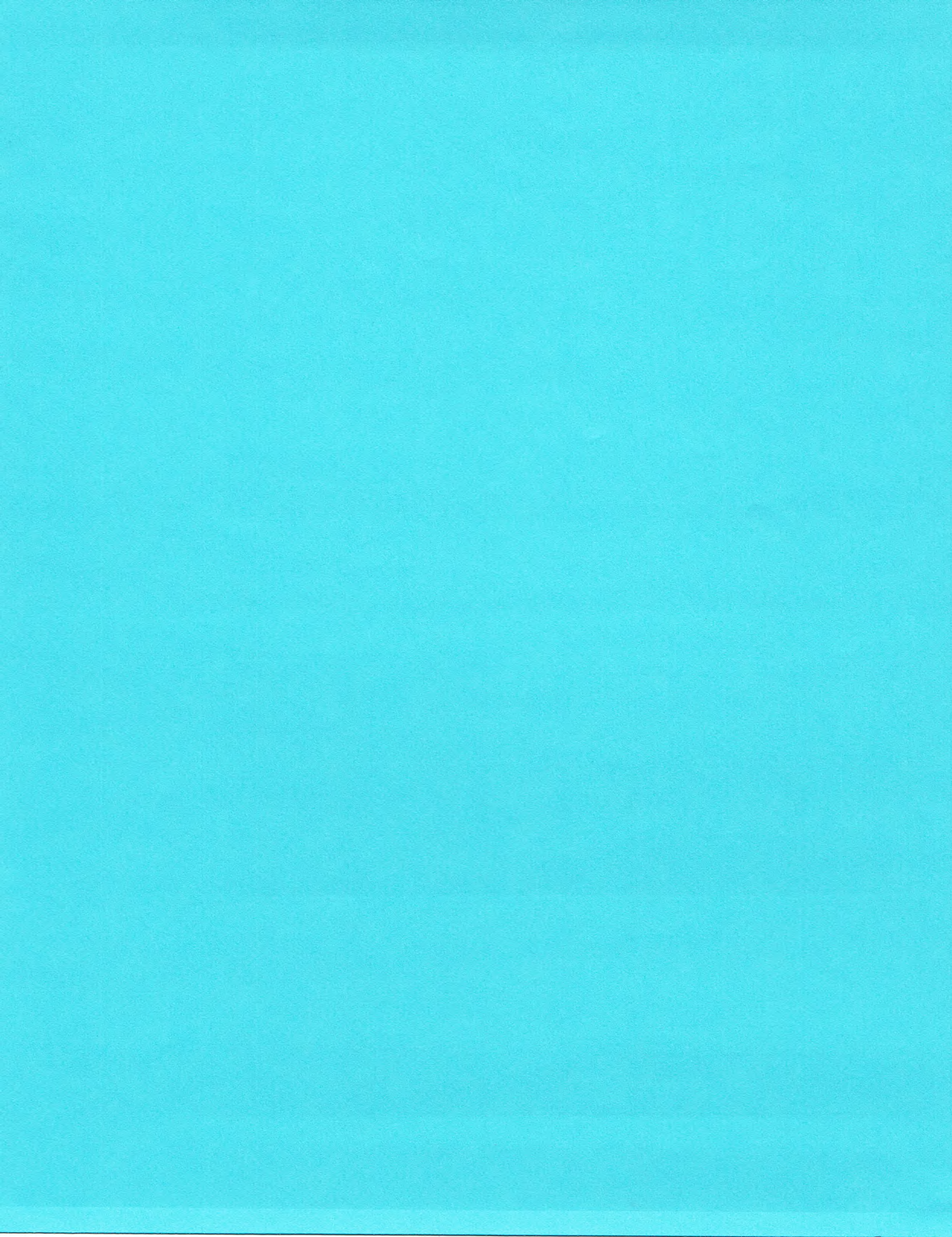
[] (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Type or Print Name

Signature

* (By Mail, signature must be of person depositing envelope in mail slot, box or bag)

** (For personal service signature must be that of messenger)



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Andrew H. Wilson
Linda M. Fong
WILSON, RYAN & CAMPILONGO
235 Montgomery Street
Suite 450
San Francisco, California 94104
(415) 391-3900

Laurie J. Bartilson
BOWLES & MOXON
6255 Sunset Boulevard
Suite 2000
Hollywood, California 90028
(213) 661-4030

Attorneys for Plaintiff
and Cross-Defendant
CHURCH OF SCIENTOLOGY INTERNATIONAL

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

ORIGINAL FILED

MAR 03 1993
**LOS ANGELES
SUPERIOR COURT**

Case No. BC 052395

CHURCH OF SCIENTOLOGY)
INTERNATIONAL, A California not-for-profit)
religious corporation;)

Plaintiff,

v.

GERALD ARMSTRONG; DOES 1 through)
25, inclusive,)

Defendant.)

AND RELATED CROSS-ACTION.)
_____)

MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
MOTION FOR SUMMARY
ADJUDICATION OF THE SECOND
AND THIRD CAUSES OF ACTION
OF THE AMENDED CROSS-
COMPLAINT

Date: March 31, 1993
Time: 8:30 a.m.
Dept.: 30

Trial Date: May 3, 1993
Disc: April 2, 1993
Mtn: April 19, 1993

TABLE OF CONTENTS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

	<u>Page</u>
I. INTRODUCTION	1
II. STANDARD OF REVIEW	2
III. THE CHURCH IS ENTITLED TO SUMMARY ADJUDICATION OF THE BREACH CLAIM BECAUSE ITS ALLEGED CONDUCT DID NOT, AS A MATTER OF LAW, BREACH THE AGREEMENT	
A. There Are No Provisions In The Agreement Which Preclude The Conduct Allegedly Constituting The Breach	2
B. Armstrong Has Admitted That The Settlement Agreement Does Not Prohibit The Conduct Allegedly Constituting The Breach	4
C. Armstrong May Not Rely On His Belief That The Settlement Agreement Was Reciprocal	5
IV. THE SECOND CAUSE OF ACTION FOR ABUSE OF PROCESS MUST BE DISMISSED BECAUSE THE ALLEGED ACTS ARE EITHER OUTSIDE THE ONE-YEAR STATUTE OF LIMITATIONS OR THERE IS NO MISUSE OF PROCESS	7
A. The Conduct Alleged To Have Occurred Before July 22, 1992 Is Precluded by the Statute of Limitations	8
B. The Conduct Post-July 22, 1991 Cannot Be the Basis For An Abuse of Process Claim Because It is Either Not a Use of Process And/Or Is Privileged.	9
1. Conduct Not Constituting Use of Process	9
2. Privileged Conduct	10
V. CONCLUSION	15

TABLE OF AUTHORITIES

Page(s)

CASES

1
2
3
4
5 Adams v. Superior Court
6 (1992) 2 Cal.App.4th 521
7 citing generally, Prosser & Keeton,
8 Torts (5th Ed. 1984) Abuse of Process
9 § 121, pp. 897-898 9, 10, 12
10
11 Czap v. Credit Bureau of Santa Clara Valley
12 (1970) 7 Cal.App.3d 1, 5 citing Prosser, Torts at p. 877. . . . 9
13 Drasin v. Jacoby & Meyers
14 (1984) 150 Cal.App.3d 481 11, 13, 14
15 FPI Development, Inc. v. Nakashima
16 (1991) 231 Cal.App. 3d 367 4
17 Frazier, Dame, Doherty, Parrish & Hanawalt v. Bocardo, Blum,
18 Lull, Niland, Terlink & Bell
19 (1977) 70 Cal.App.3d 331 6
20 Friedman v. Knecht
21 (1967) 248 Cal.App.2d 455 14
22 Haviland v. Southern California Edison Co.
23 (1916) 172 Cal. 601 5, 6
24 Parsons v. Bristol Development Co.
25 (1965) 62 Cal.2d 861 6
26 Pittelman v. Pearce
27 (1992) 92 Daily Journal D.A.R. 7371 2
28 Silberg v. Anderson
(1990) 50 Cal.3d 205 10
Thornton v. Rhoden
(1966) 245 Cal.App.2d 80, 53 Cal.Rptr. 706 8, 12
Thornton v. Rhoden
(1966) 245 Cal.App.2d 80, 53 Cal.Rptr. 706 *

Western Medical Enterprises, Inc. v. Albers
(1985) 166 Cal.App.3d 383 2
Zahn v. Canadian Indem. Co.
(1976) 57 Cal.App.3d 509 2

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

STATUTES

Civil Code Section 47(2) 7
Civil Code Section 1542 3
Civil Code Section 1542 3
Civil Code § 47(2) 1, 10, 15
Code of Civil Procedure section 340 8
Code of Civil Procedure Section 437c. 2
Evidence Code Section 452 (d) 3

OTHER AUTHORITIES

L.A.S.C. Rules 1306.1.2, 1307.1 1

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

I. INTRODUCTION

As described in separately filed motions for summary adjudication of numerous causes of action of the Amended Complaint, in December 1986, plaintiff and cross-defendant Church of Scientology International ("the Church") entered into a confidential Mutual Release of All Claims and Settlement Agreement (the "Settlement Agreement" attached as Exhibit "A" to the Declaration of Andrew H. Wilson [the "Wilson Decl."]) with defendant and cross-complainant Gerald Armstrong ("Armstrong"), the terms of which required Armstrong, but not the Church to refrain from aiding others in litigation and to refrain from discussing with third parties his experiences with the Scientology faith. In return, Armstrong received a substantial sum of money and a mutual release from the Church.

In its First Amended Complaint, the Church seeks damages for admitted breaches of the Settlement Agreement by Armstrong and a permanent injunction. In response, Armstrong has filed a Cross-Complaint alleging, inter alia, that the Church breached the Settlement Agreement (Amended Cross-Complaint, Third Cause of Action, hereinafter "Breach Claim") and abused process (id., Second Cause of Action, hereinafter "Abuse of Process Claim"). While Armstrong's allegations of supposed misconduct on the part of the Church are certainly colorful, the undisputed facts nonetheless prohibit any recovery by Armstrong for either of these claims.¹ The conduct allegedly constituting the "breach" is not prohibited by the Settlement Agreement at all. Moreover, the conduct which is alleged to "abuse" process is: (a) completely barred by the statute of limitations; (b) privileged pursuant to Civil Code § 47(2); and/or (c) does not involve the use of

25
26
27
28

¹ Armstrong has named a string of other entities and individuals as cross-defendants, but has made no effort to serve any of them. The cross-complaint was filed on July 22, 1992 and amended on October 7, 1992. The Church accordingly requests that the Court exercise its discretion, and dismiss the cross-complaint as to these unserved cross-defendants. L.A.S.C. Rules 1306.1.2, 1307.1.

1 "process" for an "ulterior purpose."

2 Accordingly, the Court should enter judgment for the Church on the Second
3 and Third Causes of Action of the Amended Cross-complaint.

4 **II. STANDARD OF REVIEW**

5 Summary judgment is properly granted when the evidence in support of the
6 moving party establishes there is no issue of material fact to be tried. Code of
7 Civil Procedure Section 437c. Summary adjudication is the proper procedure for
8 determining an issue of law. See, Zahn v. Canadian Indem. Co. (1976) 57
9 Cal.App.3d 509, 512. The trial court must decide if a triable issue of fact exists.
10 Pittelman v. Pearce (1992) 92 Daily Journal D.A.R. 7371, 7372.

11 If none does, and the sole remaining issue is one of law, it is the duty of the
12 trial court to determine it. Id.

13 **III. THE CHURCH IS ENTITLED TO SUMMARY ADJUDICATION OF THE**
14 **BREACH CLAIM BECAUSE ITS ALLEGED CONDUCT DID NOT, AS A**
15 **MATTER OF LAW, BREACH THE AGREEMENT**

16 **A. There Are No Provisions In The**
17 **Agreement Which Preclude The Conduct**
Allegedly Constituting The Breach

18 The interpretation of a written instrument is essentially a judicial function to
19 be exercised according to the generally accepted canons of interpretation.
20 Western Medical Enterprises, Inc. v. Albers (1985) 166 Cal.App.3d 383, 389.
21 With respect to the Breach of Contract Claim, there are no questions of fact to be
22 resolved. The sole issue is a matter of law. If the Court finds that the Settlement
23 Agreement does not prohibit the acts alleged to constitute the breach, then the
24 Third Cause of Action must be dismissed. Armstrong alleges that the Church
25 breached the Settlement Agreement: "[B]y making reference to Armstrong (a) in
26 communications to the press, (b) in filing pleadings and declarations in various
27 litigations." (Paragraph 71 of the Cross-Complaint.) The Settlement Agreement
28 does not prohibit these acts and contains not one, but two separate clauses whose

1 clear import is to preclude any attempt to go beyond the four corners of the
2 Agreement. Paragraph 9 is an integration clause and paragraph 18B provides that
3 the parties have made no representations not contained in the Settlement
4 Agreement and did not rely on any representation or statement not contained in
5 the Settlement Agreement.

6 There are no provisions in the Settlement Agreement prohibiting the Church
7 from referring to Armstrong in its communications with the press or in legal
8 pleadings or declarations. The only provisions which refer to the conduct of the
9 Church are contained in Paragraphs 3, 5, 6, and 7.A and I.

10 Paragraph 3 requires the payment of money, which Armstrong admits he
11 received. [Sep.St.No. 13.]²

12 Paragraph 5 requires the filing of a dismissal with prejudice of the case from
13 which the settlement arose. The Court may take judicial notice of the filing of the
14 notice of dismissal with prejudice on December 11, 1986 in the action Armstrong
15 v. Church of Scientology of California, Los Angeles Superior Court Case No. 420
16 153. Evidence Code Section 452(d). [Sep.St. No. 14.]

17 Paragraph 6 is the standard waiver of all rights under Civil Code Section
18 1542. The Third Cause of Action does not allege breach of this section.

19 Paragraph 7.A. contains an agreement by all parties that liability is denied
20 and that the settlement cannot be treated as an admission of liability for any
21 purpose. The Breach Claim does not allege breach of this section.

22 Paragraph 7.B. contains an agreement that none of the parties bound by the
23 agreement shall use past activities of any of the parties as a basis for the filing of a
24 future lawsuit.

25 None of the above-recited paragraphs prohibit the conduct allegedly
26

27 ² References to Exhibits are to Exhibits to the concurrently filed Separate
28 Statement of Undisputed Facts as "Sep.St.No. __."

1 constituting the breach. Moreover, there is no language contained in the contract
2 which would be even colorably susceptible to a meaning which would prohibit
3 such conduct. Accordingly, the Church is entitled to judgment on the Third Cause
4 of Action.

5 **B. Armstrong Has Admitted That The Settlement Agreement Does**
6 **Not Prohibit The Conduct Allegedly Constituting The Breach**

7 The admissions of a party receive an unusual deference in summary
8 judgement proceedings. FPI Development, Inc. v. Nakashima (1991) 231
9 Cal.App.3d 367, 398. An admission is binding unless there is a credible
10 explanation for the inconsistent positions taken by a party. Id.

11 In his deposition, Armstrong admitted that he knew the provisions of the
12 Settlement Agreement prevented him from disclosing confidential information but
13 that the Church was not subject to those provisions. Indeed, during his deposition,
14 Armstrong expressed the extreme displeasure which he claimed to have felt with
15 his own attorney when that attorney showed him the Agreement, which, as
16 Armstrong read it, "says on its face they can continue to attack you with impunity,
17 Mr. Armstrong." [Sep.St.No. 15.] Nonetheless, Armstrong signed the Agreement:

18 Q. And at the time you got that agreement you recognized
19 that problem with it, that it didn't prohibit them from
20 saying whatever they wanted about you; right?

21 A. Well, I also understood from basic understanding and
22 from talking to Michael Flynn that as soon as they open
23 their mouth and say one word, they've waived it, you
24 have a new unit of time, they've violated it, that's it,
25 you're free to talk, you can respond because you cannot,
26 this does not have to do with future acts.

27 It does not say specifically they are free to, they will
28 interpret it that way.

29 Id.

30 In fact, Armstrong has testified that he did not believe when he signed the
31 Agreement that the Church would be able to enforce the Agreement, and obtain
32 what they had bargained for, because the provisions of the Agreement "were not

1 reciprocal" and, in Armstrong's mind, did not bind the Church. [Sep.St.No. 15.] In
2 opposing plaintiff's motion for preliminary injunction, Armstrong argued specifically
3 that the non-disclosure provisions were not binding on the Church: "Paragraph 7D
4 prohibited Armstrong from speaking to others about Scientology, but does not
5 prohibit Scientology from talking to others about Armstrong." [Id.]

6 **C. Armstrong May Not Rely On His Belief That The**
7 **Settlement Agreement Was Reciprocal**

8 It is anticipated that Armstrong will attempt to create material issues of
9 facts as to his (mistaken) "belief" that the Settlement Agreement was "reciprocal."
10 However, that approach must be rejected for two reason. First, Armstrong cannot
11 claim a mistake of law. In Haviland v. Southern California Edison Co. (1916) 172
12 Cal. 601, the plaintiff claimed that he was deceived into the belief that the release
13 he signed was not binding,

14 "... or, in other words, that it did not mean what it said." The Supreme Court
15 rejected that argument stating that:

16 The plaintiff knew that he was signing a [document]
17 which, by its plain terms, released defendant from
18 liability. He was under no misapprehension regarding its
19 language or its meaning.

20 Id. at 609.

21 It is well settled that misrepresentations of the legal interpretation of a
22 contract, at least where there is no relation of trust or confidence between the
23 parties, do not amount to fraud, and will not furnish a ground for rescission of a
24 contract. See, Id. at 608. The Haviland court noted that if the kind of evidence
25 adduced by plaintiff could be regarded as sufficient to establish a mistake of law,
26 "... there would be little binding force in written agreements, knowingly and
27 voluntarily executed by competent parties in full possession of the facts." Id. at
28 610.

29 In this case, Armstrong has alleged that his attorney told him that he had
30 expressed to the Church's attorneys that the document was unenforceable and

1 that allegedly they agreed. Yet Paragraph 18(B) of the document states that the
2 parties "... acknowledge that they have not made any statement, representation or
3 promise to the other party regarding any fact material to this Agreement except as
4 expressly set forth herein." Moreover, the Church and Armstrong were negotiating
5 an arm's length transaction, and as in Haviland, Armstrong cannot now claim
6 mistake of law since he was under no misapprehension that the contract did not
7 state the Church was bound by any of the promises Armstrong clearly would be
8 held to.

9 Second, if Armstrong fails to show a triable issue of fact with respect to the
10 Church's defense or that the breach of contract element exists, no amount of
11 factual conflicts upon other aspects of the case will affect the result and the
12 motion for summary judgment should be granted. (Emphasis Added.) Frazier,
13 Dame, Doherty, Parrish & Hanawalt v. Bocardo, Blum, Lull, Niland, Terlink & Bell
14 (1977) 70 Cal.App.3d 331, 338. The Settlement Agreement speaks for itself.
15 There is no language in the Settlement Agreement barring the Church or the other
16 cross-defendants from referring to Armstrong in communications with the press or
17 in pleadings and declarations.

18 Extrinsic evidence is admissible to interpret the instrument, but not to give it
19 a meaning to which it is not readily susceptible, and it is the instrument itself that
20 must be given effect. Parsons v. Bristol Development Co. (1965) 62 Cal.2d 861,
21 865. Armstrong cannot refute the clear language of the contract which he signed
22 and under which he acknowledged that the Settlement Agreement "contained the
23 entire agreement between the parties," that he entered into the agreement "freely,
24 voluntarily, knowingly and willingly, without threats, intimidation or pressure...",
25 that he carefully read the agreement and understood its contents, that he received
26 independent legal counsel from his attorneys, and that there were no collateral
27 agreements except what was expressly stated in the contract. [Sep.St.Nos. 3-9,
28 16.]

1 It is solely a judicial function to interpret a written instrument unless the
2 interpretation turns upon the credibility of extrinsic evidence. Id. The only
3 possible extrinsic evidence would be Armstrong's contention that the Settlement
4 Agreement actually meant something that it does not say. Armstrong admitted he
5 knew the Settlement Agreement did not subject cross-defendants to any
6 confidentiality provisions, and in fact, it does not. Therefore, summary
7 adjudication of the Breach Claim in favor of the Church is required.

8 **IV. THE SECOND CAUSE OF ACTION FOR ABUSE OF PROCESS MUST**
9 **BE DISMISSED BECAUSE THE ALLEGED ACTS ARE EITHER OUTSIDE**
10 **THE ONE-YEAR STATUTE OF LIMITATIONS OR THERE IS NO**
11 **MISUSE OF PROCESS**

12 The Second Cause of Action for Abuse of Process is inadequate for the
13 following reasons: (1) the alleged pre-July 22, 1991 conduct is precluded by the
14 one-year statute of limitations; (2) the alleged post-July 22, 1991 conduct is either
15 (a) privileged pursuant to Civil Code Section 47(2) and/or (b) does not involve the
16 use of "process" for an "ulterior purpose."³

17 The original Cross-Complaint was filed on July 22, 1992; an amended
18 version was filed on or about October 7, 1992. As will be discussed, conduct
19 occurring before July 22, 1991 is precluded by the applicable limitations statute.

20 Armstrong alleges that the Church abused the process of the court in
21 Armstrong I, in the present lawsuit, and in other litigation, with the ulterior motive
22 to suppress evidence, obstruct justice, assassinate cross-complainant's reputation,
23 and to retaliate against cross-complainant in the lawsuits. Cross-complaint at ¶¶

24
25 ³ The Church does not, by the making of this motion, admit that any of the
26 conduct alleged by Armstrong actually occurred; indeed, the bulk of the pre-1991
27 acts which Armstrong alleges are demonstrable figments of his fertile imagination.
28 For the purposes of this motion, however, any factual dispute as to these
allegations is irrelevant; even as alleged, they do not state a claim for abuse of
process.

1 65 and 66. There are no allegations even inferring that the Church used the
2 process of the Court to somehow pressure Armstrong for some collateral purpose.
3 The only "purpose" alleged is that the Church wanted to "attack" Armstrong and
4 prevent him "from being able to take any effective action to protect himself." Yet
5 there are no allegations explaining what advantage the Church supposedly gained.

6 **A. The Conduct Alleged To Have Occurred Before July 22, 1992 Is**
7 **Precluded by the Statute of Limitations**

8 The one-year statute of limitations pursuant to Code of Civil Procedure
9 section 340 applies to a cause of action for abuse of process. Thornton v. Rhoden
10 (1966) 245 Cal.App.2d 80, 95, 53 Cal.Rptr. 706, 717. In Thornton, the plaintiff
11 alleged that defendant had abused process by taking, transcribing and filing a
12 deposition in which the defendant made false and defamatory claims. The
13 deposition was taken and transcribed more than one year before the action for
14 abuse of process was filed, and filed one year exactly before the filing of the abuse
15 of process complaint. The Court of Appeal found that the alleged taking and
16 transcribing of the deposition were beyond the statute, and could not be
17 considered part of the plaintiff's abuse of process claim. Id.⁴

18 Here, alleged conduct which purportedly occurred prior to July 22, 1991 is
19 similarly beyond the statute of limitations, and any abuse of process claim which
20 could possibly attach to those claims (and the Church considers that none could) is
21 time-barred. On the face of the cross-complaint, the conduct alleged in paragraphs
22 13, 14, 15 through 24; 26 and 27; 29 and 30; 33 through 38; 40; 43 through 48
23 and 57, are alleged to have occurred before July 22, 1991.⁵ Accordingly, the

24
25 ⁴ The court went on to hold that defendant's actions were privileged, and
26 "even if we disregard the privilege, it is obvious that just taking the ordinary steps
27 in connection with the taking, transcribing and filing of the deposition cannot be an
28 abuse of process." 53 Cal.Rptr. at 720.

⁵ Moving parties do not waive their right to assert that some or all of the
conduct alleged in the foregoing paragraphs cannot be a basis for an abuse of

1 conduct alleged in those paragraphs is barred by the statute of limitations.

2 **B. The Conduct Post-July 22, 1991 Cannot Be the Basis For An Abuse**
3 **of Process Claim Because It is Either Not a Use of Process And/Or Is**
4 **Privileged.**

5 **1. Conduct Not Constituting Use of Process**

6 The tort of abuse of process has two elements. First, there must be
7 wrongful use of process, not merely a request for an initiation of process; and
8 second, the act complained of must involve the use of process. (Emphasis in
9 original.) Adams v. Superior Court (1992) 2 Cal.App.4th 521, 530 citing
10 generally, Prosser & Keeton, Torts (5th Ed. 1984) Abuse of Process § 121, pp.
11 897-898. As explained in Adams:

12 Process is action taken pursuant to judicial authority. It is not action
13 taken without reference to the power of the court. Thus, serving
14 upon plaintiff of false notice that a bench warrant had been issued is
15 not process, because in making the false statement defendant took no
16 action pursuant to court authority. (citations omitted.) [¶] Merely
17 obtaining or seeking process is not enough; there must be subsequent
18 abuse, by a misuse of the judicial process for a purpose other than
19 that which it was intended to serve. (Citations omitted.)

20 Id. The improper purpose usually takes the form of coercion to obtain a collateral
21 advantage, not properly involved in the proceeding itself, such as a surrender of
22 property, or the payment of the money by the use of the process as a threat or a
23 club. Czap v. Credit Bureau of Santa Clara Valley (1970) 7 Cal.App.3d 1, 5 citing
24 Prosser, Torts at p. 877. There is, in other words, a form of extortion, and it is
25 what is done in the course of negotiation, rather than the issuance or in the formal
26 use of the process itself, which constitutes the tort. Id.

27 In other words, as explained in Adams:

28 The gist of the tort is the improper use of the process after it is
issued. (Citations omitted.) Here all that is described is a motion to
prevent reduction of felonies to misdemeanors. That motion did not
result in the issuance of any process of the court which was then
abused. It produced no active judicial authority, no writ or order
which was then misused. Privileged or not, such activity falls short of

process cause of action on other grounds.

1 the tort of abuse of process, which most generally consists of acts
2 exterior to the lawsuit, such as attempted extortion or pressure on a
debtor by misuse of court orders. (Emphasis in original.)

3 Adams v. Superior Court, *supra*, 2 Cal.App.4th at 531.

4 The conduct alleged in paragraphs 49, 51 and 55, although occurring after
5 July 22, 1991, falls far short of the requirements of a claim for abuse of process.

6 Paragraph 49: This paragraph merely alleges an exchange of documents
7 between a client and its counsel. There is no use of process claimed and none can
8 be inferred from the allegation.

9 Paragraph 51: Armstrong alleges here that the Church placed Armstrong
10 under surveillance by private investigators after Armstrong began to breach the
11 Settlement Agreement. Again, there is no process involved.

12 Paragraph 52: Finally, Armstrong pleads that the Church filed declarations
13 about him in still another case in which he is not a party, Aznaran v. Church of
14 Scientology of California, et al., U.S.D.C. No. CV 88-1786 JMI(Ex) ("the Aznaran
15 case"). This is not a use of process.

16 Paragraph 55: The thrust of the allegations of this paragraph are that cross-
17 defendants' counsel refused to release persons other than Armstrong from non-
18 disclosure provisions contained in settlement agreements which those persons had
19 entered into. Once again, there is no process involved.

20 2. Privileged Conduct

21 Civil Code § 47(2) has been held to immunize defendants from tort liability
22 based on theories of abuse of process. Silberg v. Anderson (1990) 50 Cal.3d 205,
23 215. The judicial privilege applies if there is some reasonable connection between
24 the act claimed to be privileged and the legitimate objects of the lawsuit in which
25 that act took place. Adams v. Superior Court, *supra*, 2 Cal.App.4th at 529. The
26 privilege is broadly applied to protect most publications within lawsuits provided
27 there is some connection between the lawsuit and the publication. Id. Any doubt
28 as to whether the privilege applies is resolved in favor of applying it. Id.

1 Moreover, the mere filing of a complaint cannot constitute an abuse of process.
2 Drasin v. Jacoby & Meyers (1984) 150 Cal.App.3d 481, 485.

3 Paragraphs 53 and 54: In these paragraphs, Armstrong asserts that the
4 Church abused process by attempting to enforce the Settlement Agreement which
5 Armstrong signed in 1986, first by seeking to have the Agreement enforced by the
6 Court which, pursuant to the terms of the Agreement, continued to maintain
7 jurisdiction over the performance of the agreement, and then by filing a complaint
8 in this action. Finally, Armstrong asserts that the Church abused process by
9 seeking to have him held in contempt for wilful violations of a temporary
10 restraining order issued in March, 1992, by Judge Dufficy of the Marin County
11 Superior Court. As a matter of law, none of these actions could constitute an
12 abuse of process.

13 The motion to enforce the Settlement Agreement was filed by the Church
14 because, after spending the \$800,000 which he accepted to settle his claims,
15 Armstrong began, in July, 1991, to openly and admittedly breach the provisions of
16 the Settlement Agreement in which Armstrong had promised not to aid other
17 litigants against the Church, and not to discuss his experiences concerning the
18 Church, absent lawful subpoena.⁶ [Sep.St.No. 19, 21.] That motion was brought
19 in the settled action because the Settlement Agreement provided that the Los
20 Angeles Superior Court would have continuing jurisdiction to enforce the
21 Settlement Agreement in the event of a breach. [Sep.St.No. 22, 24.] The Court
22 denied the Church's motion on the narrow ground that the Settlement Agreement
23 itself was insufficient to confer upon it continuing jurisdiction. The merits of the
24 motion were never reached. [Sep.St.No. 25.] Thereafter, the Church sought to

25
26 ⁶ For a complete description of Armstrong's breaches which compelled the
27 Church to take legal action, see the Church's separately-filed Motion for Summary
28 Adjudication of the Twelfth Cause of Action, the Memorandum of Points and
Authorities, Separate Statement of Undisputed Facts filed in support thereof,
incorporated herein by reference.

1 enforce the Agreement by filing the Complaint in the instant case. [Sep.St.No. 26.]
2 On May 28, 1992, the Honorable Ronald Sohigian issued a preliminary injunction
3 enforcing the Settlement Agreement, finding, inter alia, that the Church had
4 demonstrated a substantial probability of success on the merits, had been
5 irreparably harmed by Armstrong's breaches, and that the earlier denial of the
6 motion to enforce the settlement agreement on jurisdictional grounds did not
7 preclude the bringing of the action. [Sep.St.No. 31.] In taking these actions, the
8 Church had no motive other than to enforce the Agreement and recover damages
9 for its breach.

10 Under these circumstances, neither the motion to enforce nor the bringing of
11 this action could possibly be considered an abuse of process, no matter what ill
12 motive Armstrong attempts to graft onto the Church's actions. In order for an
13 action to constitute an abuse of process,

14 Some definite act or threat not authorized by the process, or
15 aimed at an objective not legitimate in the use of the process is
16 required; and there is no liability where the defendant has done
nothing more than carry out the process to its authorized conclusion,
even though with bad intentions.

17 Thornton v. Rhoden, supra, 53 Cal.Rptr. at 720.

18 Here, Armstrong has alleged nothing more than that the Church used legal
19 process to enforce the Settlement Agreement which he signed, and which the
20 Church has fully performed. Armstrong does not claim that the Church is, by its
21 actions, attempting to obtain anything other than that which the Church bargained
22 for in 1986. He makes no claim that the Church has used this action, or the
23 previous action, to seek to obtain any goal other than those plainly stated in the
24 moving papers and the Complaint: Armstrong's performance of the terms of the
25 contract whose benefits he has received. This falls precisely within the rule of the
26 Adams case. There, the court upheld the sustaining of a demurrer to a claim for
27 abuse of process because it found that the motion brought by the defendant was
28 not an act exterior to the lawsuit, or brought to exert undue pressure by misuse of

1 a court's orders.

2 So, here, Armstrong's post-settlement dislike of the terms of the Settlement
3 Agreement, his mischaracterization of them, and his arguments that they are
4 somehow "unfair" or "improper" are immaterial. The Church is not seeking any
5 collateral objective by moving to enforce the Settlement Agreement, or by bringing
6 an action to enforce it. It seeks only to enforce the Settlement Agreement. Abuse
7 of process does not lie for the filing of an action for breach of contract. See,
8 Drasin v. Jacoby & Meyers, supra.

9 Armstrong's assertion that the Church's filing of a request for an Order to
10 Show Cause Re: Contempt for Armstrong's violation of the temporary restraining
11 order issued by Judge Dufficy violated process is equally unavailing. Judge Dufficy
12 ordered the action moved from Marin County to Los Angeles County, but only after
13 issuing a temporary restraining order prohibiting Armstrong from further breaching
14 the Settlement Agreement. [Sep.St.No. 27.] Before the file was moved to Los
15 Angeles, but after the TRO was issued, Armstrong discussed his experiences with
16 the Church for hours with attorneys for litigants against protected entities, and
17 gave interviews to the press in which he also disclosed his experiences with the
18 Church. [Sep.St.No. 28.] The Church argued in its moving papers that each of
19 these activities violated the TRO. [Sep.St.No. 29.] The Marin Court did not rule
20 on the merits of the Church's motion, but simply instructed the Church to re-file it
21 in Los Angeles. [Sep.St.No. 30.]⁷ Again, the Church was plainly and obviously
22 seeking only the object of its lawful litigation, and not acting with any collateral
23

24 ⁷ Once in Los Angeles, the Church concentrated its attention on obtaining a
25 preliminary injunction, rather than on obtaining a conviction of Armstrong for
26 contempt of the TRO. [Sep.St.No. 31.] However, Armstrong's contemptuous
27 disregard for court orders has not gone unnoticed; on December 31, 1992, the
28 Church sought and obtained an Order to Show Cause Re: Contempt against
Armstrong for deliberate violations of the Preliminary Injunction, which is set for
hearing on March 5, 1993.

1 purpose. Indeed, the Church has openly and obviously sought, throughout this
2 entire litigation, merely to obtain the benefits of its bargain with Armstrong. His
3 present dislike for his negotiated terms does not render a lawful action in pursuit of
4 them "abuse of process."

5 Applying the privilege broadly, as this Court must, most certainly the Church
6 was privileged to make the motion to enforce the Settlement Agreement, to file
7 this lawsuit and to seek an order of contempt.

8 Paragraph 50: The "conduct" is an allegedly false allegation in a complaint
9 by cross-defendants against the IRS that Armstrong was involved in plans to take
10 over cross-defendants' organization. As set forth above, the mere filing of a
11 complaint cannot constitute abuse of process. Drasin, supra.

12 Even assuming, arguendo, that the quoted statements concerning Armstrong
13 were false (and they were not), the statements ar absolutely privileged. "[A]n
14 attorney at law is absolutely privileged to publish false and defamatory matters ...
15 during the course and as a part of a judicial proceeding in which he participates as
16 counsel, if it has some relation thereto." Friedman v. Knecht (1967) 248
17 Cal.App.2d 455, 460. The defamatory matter must have "some reference to the
18 subject matter of the pending litigation, although it need not be strictly pertinent or
19 relevant to any issue involved therein..." Id. The complaint to which Armstrong
20 refers is a complaint concerning an illegal criminal investigation launched by the LA
21 CID against the Church in 1984. The allegation of which Armstrong complains is
22 one of eighty which set forth in detail the constitutional violations occasioned by
23 the CID investigation. The use of Armstrong as an informant and conspirator is
24 obviously relevant to the causes of action set forth in the complaint. [Sep.St.No.
25 32-33.]

26 Paragraph 52: Finally, Armstrong pleads that the Church filed declarations
27 about him in still another case in which he is not a party, Aznaran v. Church of
28 Scientology of California, et al., U.S.D.C. No. CV 88-1786-JMI(Ex) ("the Aznaran

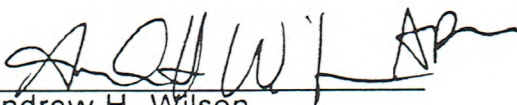
1 case"). The declarations to which Armstrong refers were only filed after
2 Armstrong began working for the Aznarans' lawyers on the Aznaran case, and
3 describe telephone conversations between Armstrong and the Church's counsel
4 concerning the Aznaran case. Armstrong also filed his own declarations in the
5 Aznaran case. [Sep.St.No. 20, 21.] Armstrong thus interjected himself into the
6 Aznaran case as a purported witness and as a paralegal.⁸ As described above, the
7 declarations are privileged under Civil Code § 47(2). Moreover, there are no
8 allegations in the cross-complaint which indicate that the declarations were then
9 used for any improper purpose as to Armstrong. At most, and stretching, the
10 allegations sound in some form of defamation, also protected by the litigation
11 privilege.

12 V. CONCLUSION

13 Armstrong's Amended Cross-Complaint purports to allege claims for Breach
14 of Contract and Abuse of Process, but those claims cannot survive summary
15 adjudication. The undisputed facts show that the Church has not breached any
16 provision of the Settlement Agreement which constitutes the contract between the
17 parties. The bulk of the actions claimed by Armstrong to be "abuse of process"
18 are long barred by the statute of limitations; the remainder do not involve the use
19 or process at all, or are absolutely privileged, even if they occurred as they are
20 alleged. The Church is accordingly entitled to summary adjudication of the Second
21 and Third Causes of Action of the Amended Cross-Complaint.

22 Dated: March 3, 1993

WILSON, RYAN & CAMPILONGO

23
24 By: 
Andrew H. Wilson

25 Laurie J. Bartilson
26

27 ⁸ Armstrong is presently prohibited by the Preliminary Injunction from acting
28 as a paralegal on the Aznaran case.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

BOWLES & MOXON

**Attorneys for Plaintiff
Counter-Defendant CHURCH OF SCIENTOLOGY
INTERNATIONAL**

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 6255 Sunset Blvd., Suite 2000, Hollywood, California 90028.

On March 3, 1993, I served the foregoing document described as MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR SUMMARY ADJUDICATION on interested parties in this action by

[] placing the true copies thereof in sealed envelopes as stated on the attached mailing list;

[X] placing [] the original [X] a true copy thereof in sealed envelopes addressed as follows:

Paul Morantz
P.O. Box 511
Pacific Palisades, CA 90272

[] BY MAIL

[] *I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

[X] As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on _____, 1993, at Los Angeles, California.

[X] **** (BY PERSONAL SERVICE)** I delivered such envelope by hand to the offices of the addressee.

Executed on March 3, 1993, at Los Angeles, California.

[X] (State) I declare under penalty of the laws of the State of California that the above is true and correct.

[] (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

CAROL C. NELSON

Type or Print Name

Carol Nelson

Signature

* (By Mail, signature must be of person depositing envelope in mail slot, box or bag)

** (For personal service signature must be that of messenger)

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 6255 Sunset Blvd., Suite 2000, Hollywood, California 90028.

On MARCH 3, 1993, I served the foregoing document described as MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR SUMMARY ADJUDICATION on interested parties in this action by

- placing the true copies thereof in sealed envelopes as stated on the attached mailing list;
- placing the original a true copy thereof in sealed envelopes addressed as follows:

Ford Greene By U.S. Mail & Fax
HUB Law Offices
711 Sir Francis Drake Boulevard
San Anselmo, CA 94960-1949

- BY MAIL
- *I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.
- As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on March 3, 1993, at Los Angeles, California.

[] **** (BY PERSONAL SERVICE)** I delivered such envelope by hand to the addressee.

Executed on _____, 1993, at Los Angeles, California.

[X] (State) I declare under penalty of the laws of the State of California that the above is true and correct.

[] (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

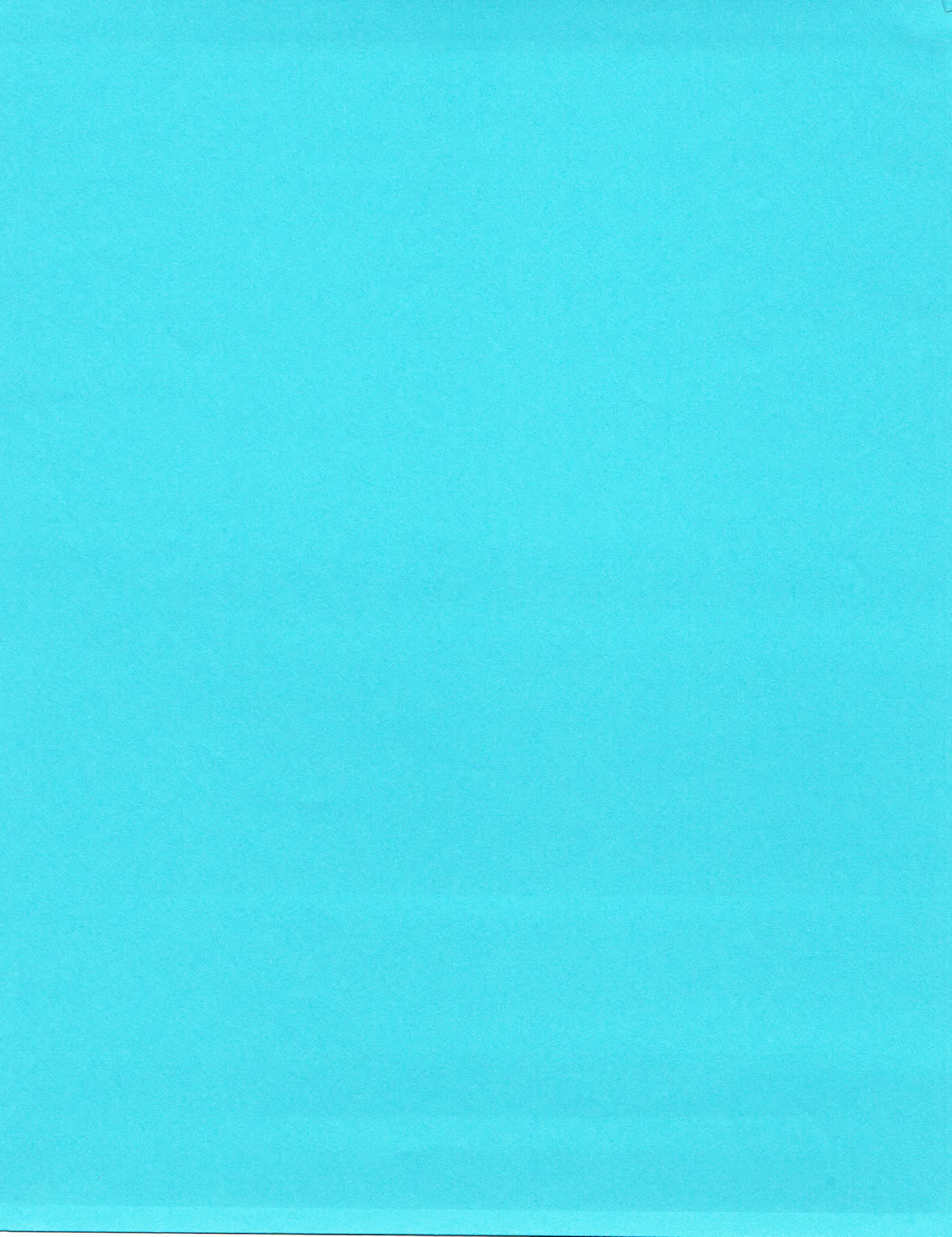
Paul Bradford

Type or Print Name

Paul Bradford
Signature

* (By Mail, signature must be of person depositing envelope in mail slot, box or bag)

** (For personal service signature must be that of messenger)



SUPERIOR COURT OF CALIFORNIA , COUNTY OF LOS ANGELES

Date: March 23, 1993

Honorable	DAVID A. HOROWITZ	, Judge	S. ROBLES	, Deputy Clerk
8	C. AGUIRRE	, Deputy Sheriff	B. CHARLINE HOWELL	, Reporter
		, C. S. L.		, E/R Monitor

BC052395

(Parties and Counsel checked if present)

CHURCH OF SCIENTOLOGY, ETC

Counsel For LAURIE BARTILSON (x)
 Plaintiff ANDREW WILSON (x)

VS

GERALD ARMSTRONG

Counsel For FORD GREENE (x)
 Defendant

NATURE OF PROCEEDINGS:

MOTION OF DEFENDANT, GERALD ARMSTRONG, FOR STAY OR IN THE ALTERNATIVE, FOR AN EXTENSION OF TIME TO OPPOSE MOTIONS FOR SUMMARY ADJUDICATION;

D, Mot for stay of proceedings GRANTED. The action is stayed under CCP 916. Counsel are ordered to report any decision by the Court of Appeal to this Department, in writing, within one day of the issuance of the opinion so that this Court may lift the stay.

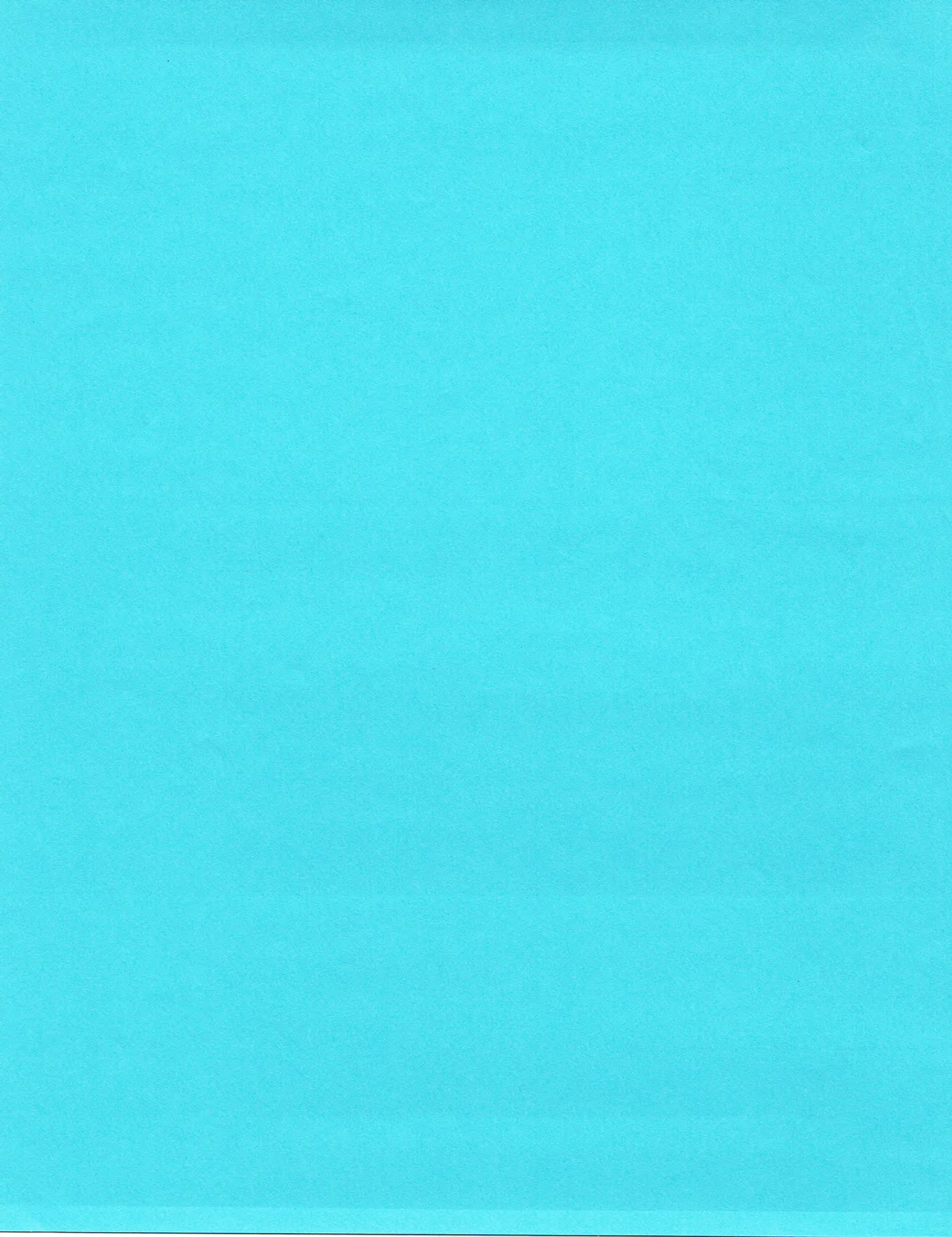
"...an appeal stays proceedings in the trial court upon the order appealed from or upon the matters embraced therein or affected thereby..." CCP 916. As the Church has stated in its Summary Adjudication motions, "The facts are undisputed, however, that Armstrong has breached the Agreement repeatedly and deliberately. Because of these breaches, a preliminary injunction was issued by the Court on May 28, 1992." Obviously, the validity of the Agreement is the basis for the preliminary injunction. One of the basis for the appeal is an attack on the legality and validity of the Agreement.

The central issue of this case is the legality and validity of the Agreement. The Court of Appeal could certainly reach that issue in its determination of the validity of the injunction. If it does, that ruling could be determinative of many of the issues of this case. It makes no sense to proceed with this matter until the Court of Appeal makes its ruling.

Any and all matters set in this department, including but not limited to the Motions set for 3/31/93, the Final Status Conference of 4/23/93 and the Trial of 5/3/93, are each advanced and vacated.

Defendant shall give notice.

774



IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION FOUR

CHURCH OF SCIENTOLOGY INTERNATIONAL,)
)
 Plaintiff and Respondent,)
)
 v.)
)
 GERALD ARMSTRONG,)
)
 Defendant and Appellant.)
)
 _____)

No. B069450
(Super.Ct.No. BC052395)

COURT OF APPEAL - SECOND DIST.
FILED

MAY 16 1994

JOSEPH A. LAKE Clerk
Deputy Clerk

APPEAL from an order of the Superior Court of
Los Angeles County, Ronald M. Sohigian, Judge. Affirmed.

Ford Greene and Paul Morantz for Defendant and
Appellant.

Bowles & Moxon, Karen D. Holly, Wilson, Ryan &
Campilongo, Andrew H. Wilson, Rabinowitz, Boudin, Standard,
Krinsky & Lieberman, Eric M. Lieberman, and Michael Lee
Hertzberg for Plaintiff and Respondent.

Defendant and appellant Gerald Armstrong (Armstrong) appeals from an order granting a preliminary injunction restraining Armstrong from voluntarily giving assistance to other persons litigating or intending to litigate claims against plaintiff and respondent Church of Scientology International (Church).

The injunction was granted to enforce a settlement agreement in prior litigation between Armstrong and Church. In the settlement, Armstrong agreed he would not voluntarily assist other persons in proceedings against Church.

Armstrong does not deny violating his agreement but asserts numerous reasons why his agreement should not be enforceable. We conclude that the narrowly-limited preliminary injunction, which did not finally adjudicate the merits of Armstrong's claims, was not an abuse of the trial court's discretion to make orders maintaining the status quo and preventing irreparable harm pending the ultimate resolution of the merits.

FACTUAL AND PROCEDURAL BACKGROUND

Armstrong was a member of Church between 1969 and 1981. He became an insider of high rank, familiar with Church practices and documents. He became disillusioned and left Church in 1981. When he left, he took many Church documents with him.

The Prior Action and Settlement

Church brought the prior action against Armstrong seeking return of the documents, injunctive relief against further dissemination of information contained in them, and imposition of a constructive trust. Mary Sue Hubbard, wife of Church founder L. Ron Hubbard, intervened asserting various torts against Armstrong. Armstrong filed a cross-complaint seeking damages for fraud, intentional infliction of emotional distress, libel, breach of contract, and tortious interference with contract.

Church's complaint and Hubbard's complaint in intervention were tried in 1984 by Judge Breckenridge. That trial led to a judgment, eventually affirmed on appeal, holding Armstrong's conversion of the documents was justified because he believed the conversion necessary to protect himself from Church's claims that he had lied about Church matters and L. Ron Hubbard. (Church of Scientology v. Armstrong (1991) 232 Cal.App.3d 1060, 1063, 1073.)

Armstrong's cross-complaint in that case was settled in December 1986 by the settlement agreement which is the subject of the injunction in the present case.

In the settlement agreement, the parties mutually released each other from all claims, except the then-pending appeal of Judge Breckenridge's decision on Church's complaint, which was expressly excluded. The settlement involved a number

of persons engaged in litigation against Church, all represented by Attorney Michael Flynn. As a result of the settlement, Armstrong was paid \$800,000. Armstrong's cross-complaint was dismissed with prejudice, as agreed, on December 11, 1986.

The portions of the settlement agreement most pertinent to this appeal are paragraphs 7-G, 7-H, and 10, in which Armstrong agreed not to voluntarily assist other persons intending to engage in litigation or other activities adverse to Church.1/

1. "G. Plaintiff agrees that he will not voluntarily assist or cooperate with any person adverse to Scientology in any proceeding against any of the Scientology organizations, individuals, or entities listed in Paragraph 1 above. Plaintiff also agrees that he will not cooperate in any manner with any organizations aligned against Scientology. [¶] H. Plaintiff agrees not to testify or otherwise participate in any other judicial, administrative or legislative proceeding adverse to Scientology or any of the Scientology Churches, individuals or entities listed in Paragraph 1 above unless compelled to do so by lawful subpoena or other lawful process. Plaintiff shall not make himself amenable to service of any such subpoena in a manner which invalidates the intent of this provision. Unless required to do so by such subpoena, Plaintiff agrees not to discuss this litigation or his experiences with and knowledge of the Church with anyone other than members of his immediate family. As provided hereinafter in Paragraph 18(d), the contents of this Agreement may not be disclosed. [¶] . . . 10. Plaintiff agrees that he will not assist or advise anyone, including individuals, partnerships, associations, corporations, or governmental agencies contemplating any claim or engaged in litigation or involved in or contemplating any activity adverse to the interests of any entity or class of persons listed above in Paragraph 1 of this Agreement."

Paragraph 20 of the agreement authorizes its enforcement by injunction.

The Present Action

In February 1992, Church filed a complaint in the present action alleging Armstrong's violation of the settlement agreement and seeking damages and injunctive relief.

In support of its motion for a preliminary injunction, Church presented evidence that since June 1991 Armstrong had violated the agreement by working as a paralegal for attorneys representing clients engaged in litigation against Church and by voluntarily and gratuitously providing evidence for such litigation. Armstrong worked as a paralegal for Attorney Joseph Yanny, who represented Richard and Vicki Aznaran in a multimillion dollar suit against Church in federal court. Armstrong also voluntarily provided declarations for use in the Aznarans' case. Armstrong thereafter worked for Attorney Ford Greene on the Aznaran and other Church related matters.

Armstrong did not deny the charged conduct but asserted the settlement agreement was not enforceable for various reasons, primarily that it was against public policy and that he signed it under duress.

The Trial Court's Preliminary Injunction

The trial court granted a limited preliminary injunction, with exceptions which addressed Armstrong's

argument that the settlement agreement violated public policy by requiring suppression of evidence in judicial proceedings.

The court found that Armstrong voluntarily entered the settlement agreement for which he received substantial compensation, and that Armstrong was unlikely to prevail on his duress claim. The court found that Armstrong could contract as part of the settlement to refrain from exercising various rights which he would otherwise have. Balancing the interim harms to the parties, the court found that to the extent of the limited acts covered by the preliminary injunction, Church would suffer irreparable harm which could not be compensated by monetary damages, and harm for which monetary damages would be difficult to calculate. (Code Civ. Proc., § 526, subs. (a)(2), (a)(4), (a)(5).)

The court's order provides, in pertinent part:

"Application for preliminary injunction is granted in part, in the following respects only. [¶] Defendant Gerald Armstrong, his agents, and persons acting in concert or conspiracy with him (excluding attorneys at law who are not said defendant's agents or retained by him) are restrained and enjoined during the pendency of this suit pending further order of court from doing directly or indirectly any of the following: [¶] Voluntarily assisting any person (not a governmental organ or entity) intending to make, intending to press, intending to arbitrate, or intending to litigate a claim against the persons

referred to in sec. 1 of the 'Mutual Release of All Claims and Settlement Agreement' of December, 1986 regarding such claim or regarding pressing, arbitrating, or litigating it. [¶]

Voluntarily assisting any person (not a governmental organ or entity) arbitrating or litigating a claim against the persons referred to in sec. 1 of the 'Mutual Release of All Claims and Settlement Agreement' of December, 1986."

The court provided the following exceptions to address Armstrong's public policy arguments: "The court does not intend by the foregoing to prohibit defendant Armstrong from: (a) being reasonably available for the service of subpoenas on him; (b) accepting service of subpoenas on him without physical resistance, obstructive tactics, or flight; (c) testifying fully and fairly in response to properly put questions either in deposition, at trial, or in other legal or arbitration proceedings; (d) properly reporting or disclosing to authorities criminal conduct of the persons referred to in sec. 1 of the 'Mutual Release of All Claims and Settlement Agreement' of December, 1986; or (e) engaging in gainful employment rendering clerical or paralegal services not contrary to the terms and conditions of this order."

/

/

/

/

DISCUSSION

The grant of a preliminary injunction does not adjudicate the ultimate rights in controversy between the parties. It merely determines that the court, balancing the relative equities of the parties, concludes that, pending a trial on the merits, the defendant should be restrained from exercising the right claimed. The purpose of the injunction is to preserve the status quo until a final determination of the merits of the action. (Continental Baking Co. v. Katz (1968) 68 Cal.2d 512, 528.)

The court considers two interrelated factors. The first is the likelihood the plaintiff will prevail at trial. The second is the interim harm the plaintiff is likely to sustain if the injunction is denied, as compared to the harm the defendant is likely to suffer if the injunction is granted. (Cohen v. Board of Supervisors (1985) 40 Cal.3d 277, 286.)

The decision to grant or deny a preliminary injunction rests in the discretion of the trial court. Accordingly, an appellate court's review on appeal from the granting of a preliminary injunction is very limited. The burden is on the appellant to make a clear showing that the trial court abused its discretion. (IT Corp. v. County of Imperial (1983) 35 Cal.3d 63, 69; Nutro Products, Inc. v. Cole Grain Co. (1992) 3

Cal.App.4th 860, 865.) Abuse of discretion means the trial court has exceeded the bounds of reason or contravened the uncontradicted evidence. (IT Corp. v. County of Imperial, supra, 35 Cal.3d at p. 69.)

Here, the trial court's memorandum decision reflects very careful consideration of the factors relevant to the granting of a preliminary injunction. The court weighed the relative harms to the parties and balanced the interests asserted by Armstrong. The court granted a limited preliminary injunction with exclusions protecting the countervailing interests asserted by Armstrong. We find no abuse of discretion. We cannot say that the trial court erred as a matter of law in weighing the hardships or in determining there is a reasonable probability Church would ultimately prevail to the limited extent reflected by the terms of the preliminary injunction.

Although Armstrong's "freedom of speech" is affected, it is clear that a party may voluntarily by contract agree to limit his freedom of speech. (See In re Steinberg (1983) 148 Cal.App.3d 14, 18-20 [filmmaker agreed to prior restraint on distribution of film]; ITT Telecom Products Corp. v. Dooley (1989) 214 Cal.App.3d 307, 319 [employee's agreement not to disclose confidential information; "it is possible to waive even First Amendment free speech rights by contract"]; Snepp v. United States (1980) 444 U.S. 507, 509, fn. 3 [book by CIA

employee subject to prepublication clearance by terms of his employment contract].)

The exceptions in the trial court's injunction assured that the injunction would not serve to suppress evidence in legal proceedings. The injunction expressly did not restrain Armstrong from accepting service of subpoenas, testifying fully and fairly in legal proceedings, and reporting criminal conduct to the authorities. (See Philippine Export & Foreign Loan Guarantee Corp. v. Chuidian (1990) 218 Cal.App.3d 1058, 1081-1082.) This contrasts with the stipulation in Mary R. v. B. & R. Corp. (1983) 149 Cal.App.3d 308, 315-316, cited by Armstrong, which prevented a party from disclosing misconduct to regulatory authorities.

This appeal is only from the granting of a preliminary injunction which expressly did not decide the ultimate merits. As limited by the trial court here, the preliminary injunction merely restrains, for the time being, Armstrong's voluntary intermeddling in other litigation against Church, in violation of his own agreement. We decline any extended discussion of Armstrong's shotgun-style brief, which offers more than a dozen separate contentions against enforcement. It suffices to say that Armstrong has not borne his burden on appeal to demonstrate a clear abuse of discretion.

DISPOSITION

The order granting a preliminary injunction is affirmed.

NOT TO BE PUBLISHED

VOGEL (C.S.), Acting P.J.

We concur:

HASTINGS, J.

KLEIN (Brett), J.*

*Assigned by the Chairperson of the Judicial Council.

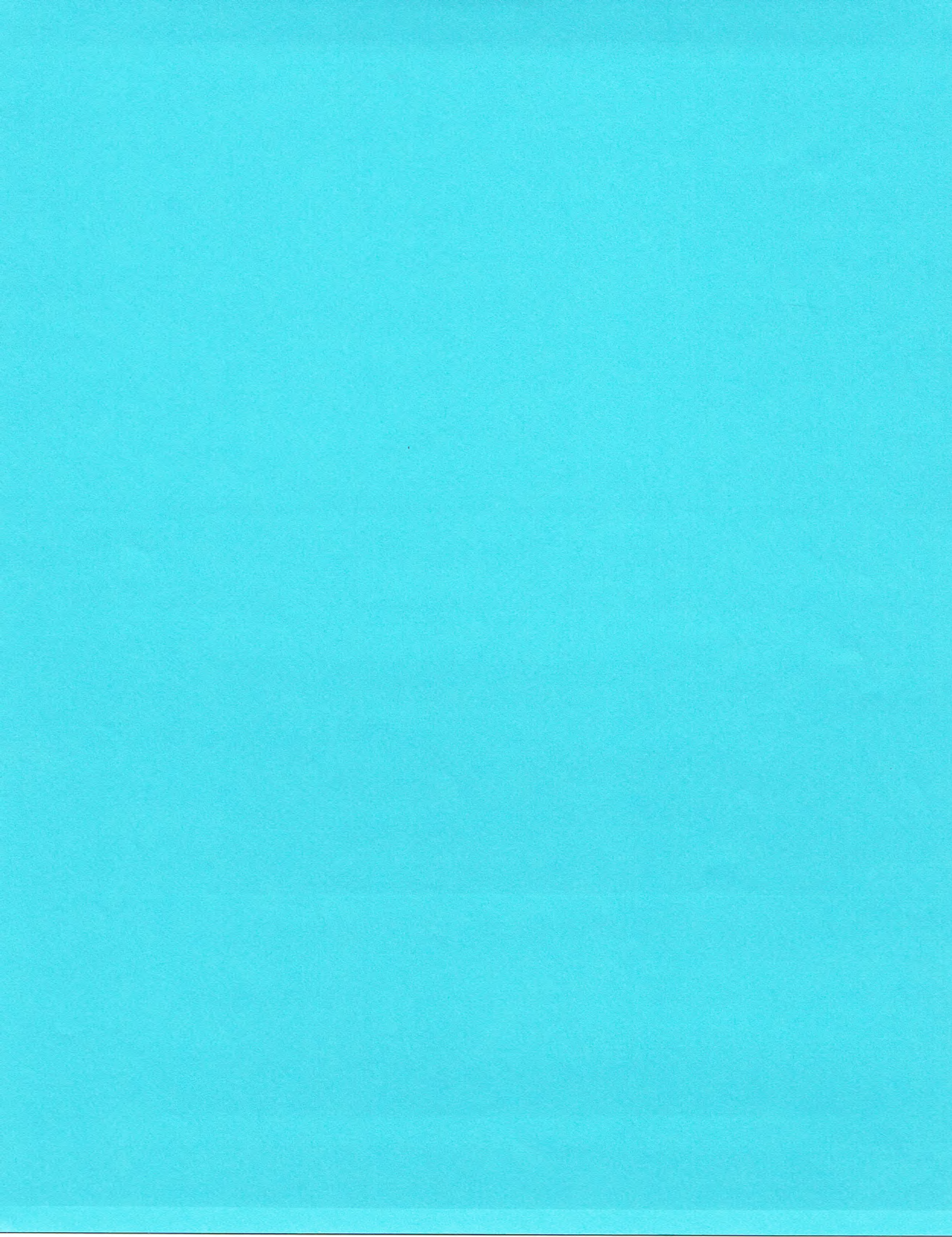
OFFICE OF THE CLERK
COURT OF APPEALS
STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT
JOSEPH A. LANE, CLERK

DIVISION: 4 DATE: 05/16/94

Bowles & Moxon
Laurie J. Bartilson
6255 Sunset Blvd
Suite 2000
Hollywood, CA. 90028

RE: Church of Scientology International
vs.
Armstrong, Gerald
2 Civil B069450
Los Angeles NO. BC052395



SUPERIOR COURT OF CALIFORNIA , COUNTY OF LOS ANGELES

Date: May 28, 1992
 Honorable Ronald M. Sohigian, Judge
 1

M. Cervantes, Deputy Clerk
 None (E.R.M.)

BC 052395

(Parties and Counsel checked if present)

Church of Scientology, International

Counsel For
Plaintiff

VS.

Gerald Armstrong, et al.

Counsel For
Defendant

No Appearances

NATURE OF PROCEEDINGS: RULING ON MATTER TAKEN UNDER SUBMISSION ON MAY 27, 1992

In this matter heretofore taken under submission on May 27, 1992, the court now makes the following ruling.

1 Plaintiff's legal remedies are inadequate insofar as the scope of relief ordered below is concerned, but not otherwise. CCP 526(4) and (5).

2 The threatened acts which are restrained by the order referred to below, but only those threatened acts, would do irreparable harm to plaintiff which could not be compensated by monetary damages. CCP 526(2).

3 On the basis of the instant record, there is a reasonable probability that plaintiff will prevail after trial of this case in the respects restrained by this order. CCP 526(1); cf., San Francisco Newspaper Printing Co., Inc. vs. Superior Court (Miller) (1985) 170 Cal. App. 3d 438.

4 Plaintiff is likely to suffer greater injury from denial of the preliminary injunction the terms of which are set out below than the injury which defendant is likely to suffer if it is granted. See Robbins vs. Superior Court (County of Sacramento) (1985) 38 Cal. 3d 199, 206.

5 The granting of a preliminary injunction in the terms set out below will preserve the status quo pending trial.

SUPERIOR COURT OF CALIFORNIA , COUNTY OF LOS ANGELES

Date: May 28, 1992
 Honorable Ronald M. Sohigian, Judge
 1a

M. Cervantes, Deputy Clerk
 None (E.R.M.)

BC 052395

(Parties and Counsel checked if present)

Church of Scientology, International
 vs.

Counsel For
 Plaintiff

Gerald Armstrong, et al.

Counsel For
 Defendant

No Appearances

NATURE OF PROCEEDINGS: RULING ON MATTER TAKEN UNDER SUBMISSION ON MAY 27, 1992

6 Application for preliminary injunction is granted in part, in the following respects only.

Defendant Gerald Armstrong, his agents, and persons acting in concert or conspiracy with him (excluding attorneys at law who are not said defendant's agents or retained by him) are restrained and enjoined during the pendency of this suit pending further order of court from doing directly or indirectly any of the following:

Voluntarily assisting any person (not a governmental organ or entity) intending to make, intending to press, intending to arbitrate, or intending to litigate a claim against the persons referred to in sec. 1 of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986 regarding such claim or regarding pressing, arbitrating, or litigating it.

Voluntarily assisting any person (not a governmental organ or entity) arbitrating or litigating a claim against the persons referred to in sec. 1 of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986.

The court does not intend by the foregoing to prohibit defendant Armstrong from: (a) being reasonably available for the service of subpoenas on him; (b) accepting service of subpoenas on him without physical resistance, obstructive tactics, or flight; (c) testifying fully and fairly in response to properly put questions either in deposition, at trial, or in other legal or arbitration proceedings; (d) properly reporting or disclosing to authorities criminal conduct of the persons referred to in sec. 1 of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986; or (e) engaging in gainful employment rendering clerical or paralegal services not contrary to the terms and conditions of this order.

SUPERIOR COURT OF CALIFORNIA , COUNTY OF LOS ANGELES

Date: May 28, 1992
 Honorable Ronald M. Sohigian, Judge
 1b

M. Cervantes, Deputy Clerk
 None (E.R.M.)

BC 052395

(Parties and Counsel checked if present)

Church of Scientology, International

Counsel For
Plaintiff

vs.

Gerald Armstrong, et al.

Counsel For
Defendant

No Appearances

NATURE OF PROCEEDINGS: RULING ON MATTER TAKEN UNDER SUBMISSION ON MAY 27, 1992

The application for preliminary injunction is otherwise denied.

7 The restraints referred to in sec. 6, above, will become effective upon plaintiff's posting an undertaking in the sum of \$70,000 pursuant to CCP 529(a) by 12:00 noon on June 5, 1992.

8 The restraints referred to in sec. 6, above, properly balance and accommodate the policies inherent in: (a) the protectable interests of the parties to this suit; (b) the protectable interests of the public at large; (c) the goal of attaining full and impartial justice through legitimate and properly informed civil and criminal judicial proceedings and arbitrations; (d) the gravity of interest involved in what the record demonstrates defendant might communicate in derogation of the contractual language; and (e) the reasonable interpretation of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986. The fair interpretation of all the cases cited by the parties indicates that this is the correct decisional process. The law appropriately favors settlement agreements. Obviously, one limitation on freedom of contract is "public policy"; in determining what the scope of the public policy limitation on the parties' rights to enforcement of their agreement in the specific factual context of this case, the court has weighed the factors referred to in the first sentence of this section. Litigants have a substantial range of contractual freedom, even to the extent of agreeing not to assert or exercise rights which they might otherwise have. The instant record shows that plaintiff was substantially compensated as an aspect of the agreement, and does not persuasively support defendant's claim of duress or that the issues involved in this preliminary injunction proceeding were precluded by any prior decision.

SUPERIOR COURT OF CALIFORNIA , COUNTY OF LOS ANGELES

Date: May 28, 1992
Honorable Ronald M. Sohigian, Judge
1c

M. Cervantes, Deputy Clerk
None (E.R.M.)

BC 052395

(Parties and Counsel checked if present)

Church of Scientology, International

Counsel For
Plaintiff

vs.

Gerald Armstrong, et al.

Counsel For
Defendant

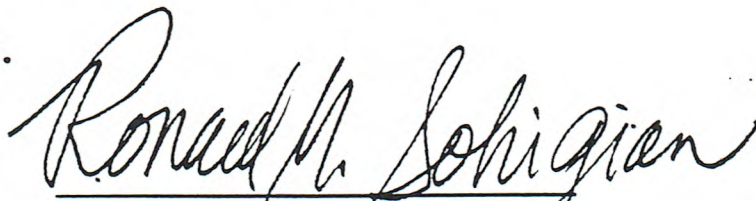
No Appearances

NATURE OF PROCEEDINGS: RULING ON MATTER TAKEN UNDER SUBMISSION ON MAY 27, 1992

9 The court does not dispositively decide the underlying merits of the case except for this preliminary determination. CCP 526(1); Baypoint Mortgage Corp. vs. Crest Premium Real Estate etc. Trust (1985) 168 Cal. App. 3d 818, 823.

10 Plaintiff is ordered give written notice by mail by June 5, 1992, including in that written notice a statement regarding whether plaintiff has or has not posted the undertaking referred to in sec. 7, above, and attaching to that written notice evidence showing that the undertaking has been posted if that is the fact.

DATED: May 28, 1992.


RONALD M. SOHIGIAN
Judge of the Superior Court

A copy of this minute order is sent to counsel via United States mail this date.

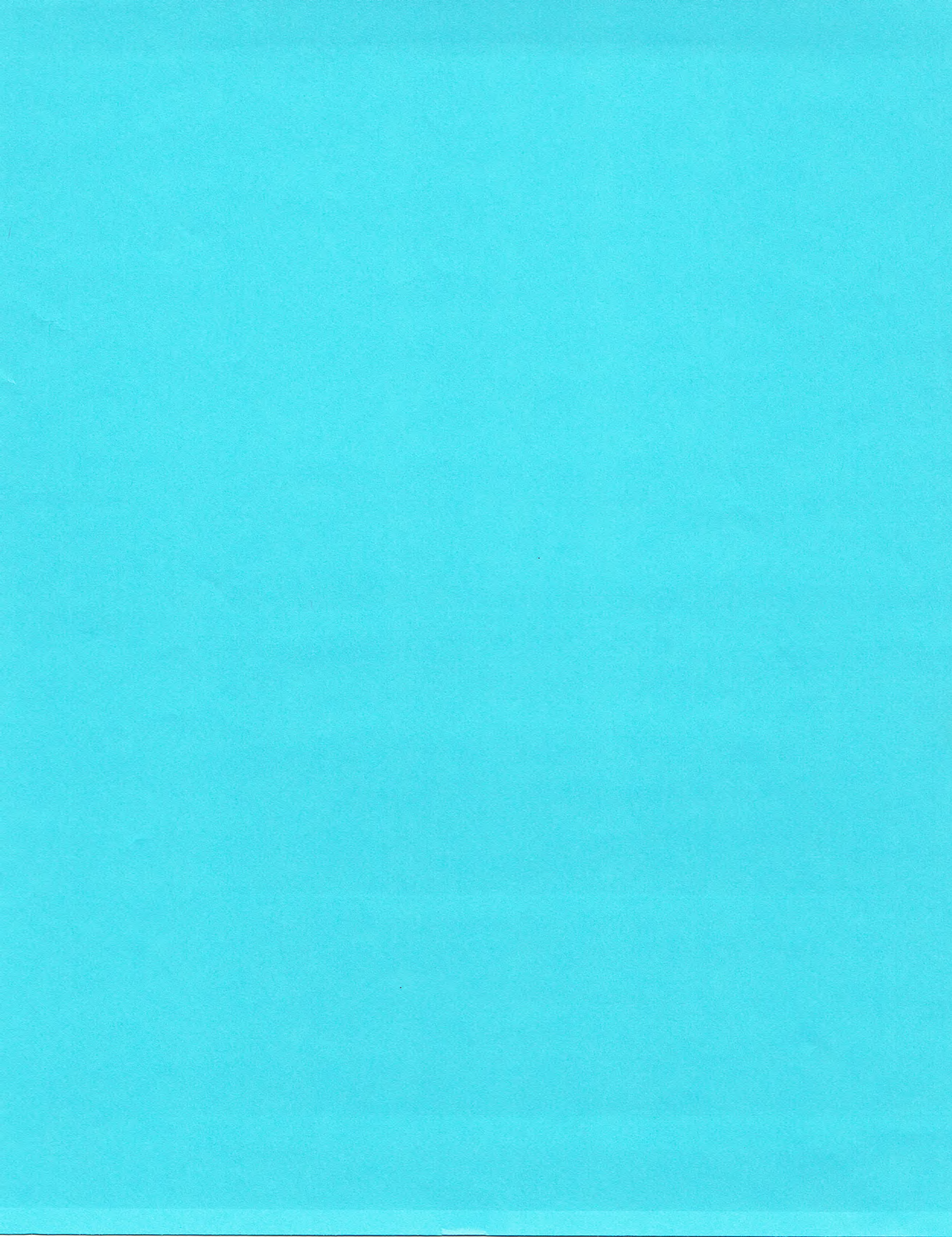
THE DOCUMENT TO WHICH THIS CERTIFICATE IS
ATTACHED IS A FULL, TRUE, AND CORRECT COPY
OF THE ORIGINAL ON FILE AND OF RECORD IN
MY OFFICE.

ATTEST MAR 01 1986

EDWARD M. KRITZMAN

Executive Officer/Clerk of the Superior
Court of California, County of Los Angeles.

By *[Signature]* , Deputy



1 William T. Drescher
23679 Calabasas Road, Suite 338
2 Calabasas, California 91302
(818) 591-0039

3
4 Michael Lee Hertzberg
740 Broadway
New York, New York 10003
5 (212) 982-9870

6 Attorneys for Non-Party
DAVID MISCAVIGE
7

8

9

UNITED STATES DISTRICT COURT

10

FOR THE CENTRAL DISTRICT OF CALIFORNIA

11

12 CHURCH OF SCIENTOLOGY) CASE NO. CV 91-6426 HLH(Tx)
INTERNATIONAL, a California Non-)
13 Profit Religious Organization,) DECLARATION OF DAVID
) MISCAVIGE

14 Plaintiff,

15 vs.

16 STEVEN FISHMAN and UWE GEERTZ,

17 Defendants.
18
19
20
21

22
23 I, DAVID MISCAVIGE, declare and say:

24 1. I am over 18 years of age and a resident of the State
25 of California. I have personal knowledge of the matters set
26 forth in this declaration and, if called upon as a witness I
27 could and would competently testify thereto.

28 2. I am not a party in the above-referenced case, nor am I

1 affiliated in any corporate capacity with the plaintiff, Church
2 of Scientology International ("CSI"). I make this declaration
3 for several reasons. First, until January 4, 1994, the date on
4 which I was informed that my deposition had been ordered in this
5 case by Magistrate Judge Tassopoulos, I had no idea that I would
6 be required to testify in this case. I was never served with any
7 subpoena for such testimony, I have never had any contact
8 whatsoever with either defendant, and I had nothing whatsoever to
9 do with this case until now. In fact, it was not until January 6,
10 1994, after my deposition had been ordered, that I first read the
11 outrageous papers filed by Geertz's counsel when he sought to
12 have my deposition ordered. Second, upon reading those papers,
13 I discovered that Geertz's counsel made arguments to the
14 Magistrate Judge that gave her the absolutely false impression
15 that I was evading service of subpoena. It caused me great
16 concern to learn that the Magistrate Judge had asked, "Why has
17 Mr. Miscavige avoided service?" I did no such thing, and were it
18 not for the baseless allegations which Geertz's counsel
19 proffered, I believe the Magistrate Judge would instead have
20 asked Geertz's counsel, "Has Mr. Miscavige been served?" The
21 truthful answer to that question is "No." Third, my lawyers'
22 efforts to arrange for my deposition to be taken have been
23 rebuffed by Geertz's counsel, who, at the same time, is
24 threatening to move for a contempt citation against me for not
25 appearing at a deposition he has refused to schedule. It is
26 inconceivable to me that Geertz's counsel can seriously contend
27 that I am to blame for a deposition not going forward when he has
28 refused to depose me. Finally, in the course of these

1 proceedings, Geertz's counsel, Robert Vaughn Young and Stacy
2 Young have made a number of allegations about me and about the
3 Scientology religion which require a response, so there can be no
4 doubt that those allegations are false.

5 3. I have read the vile declarations filed by Vaughn and
6 Stacy Young in this case. It is clear to me that the false
7 allegations they have filed have been offered solely for the
8 purpose of making me the centerpiece of this litigation, and that
9 their motivation is to forward a litigation tactic of harassment
10 to the point of a hoped-for default by the only laintiff to this
11 action, CSI. The foregoing is based on the falsity of the claims
12 they have made, my personal knowledge that both of these
13 individuals are not qualified to testify to the matters they have
14 addressed by declaration, and because I have seen the same
15 litigation tactics used before in instances where Vaughn Young
16 would have learned this "technique." Therefore, this declaration
17 is submitted to demonstrate that I have no knowledge of the
18 defendants in this case, to set the record straight concerning
19 the false allegations of Vaughn and Stacy Young, and to comply as
20 fully with the court order concerning my deposition as Geertz's
21 counsel's actions permit, since Geertz's counsel has declined all
22 opportunities to do so. I also submit this declaration because I
23 feel the Court has been poisoned into believing that I have had
24 some role in this litigation by the statements of the Youngs and
25 counsel for Geertz, to which I have neither responded nor even
26 had the opportunity to respond.

27

28

1 BACKGROUND

2 4. I have been a practicing member of the Scientology
3 religion since 1971. In 1976, I joined staff of the Church of
4 Scientology of California (and the Sea Organization -- the
5 Scientology religious order). During my tenure in this
6 corporation, I held many positions. In 1977, I had the
7 opportunity to work directly with L. Ron Hubbard in many
8 different capacities. In 1978, Mr. Hubbard was engaged in the
9 production of Scientology films which had the purpose of training
10 Scientology counsellors (called "auditors") in the practice of
11 Scientology. During this time I was the Chief Cameraman. Later,
12 I worked directly with Mr. Hubbard as a member of the Commodore's
13 Messenger Organization ("CMO"), which duties consisted of
14 assisting Mr. Hubbard in whatever activities he was engaged in.
15 The functions are best described as an assistant. Later, when
16 Mr. Hubbard went into seclusion to continue his researches on
17 Dianetics and Scientology, and to engage in his own writings, I
18 became part of a newly formed CMO organization, CMO
19 International.

20 5. CMO International's role was to see that the
21 management of the Church operated in accordance with Scientology
22 policy and technology. The title of my position was Action
23 Chief. In short, this post was responsible for missionary
24 activities of the Church, where personnel from the Mother Church
25 would travel to different parts of the world to see to the proper
26 operation of various Church activities and to take corrective
27 action where necessary. The types of missions I generally
28 supervised were those that saw to the correct functioning of the

1 Church management and the correction thereof.

2 6. From the beginning of 1982 until March of 1987, I was
3 Chief Executive Officer and later Chairman of the Board of Author
4 Services, Inc. ("ASI"), a California corporation which managed
5 the personal, business, and literary affairs of L. Ron Hubbard.
6 Later in this declaration, I describe how I came to that
7 position.

8 7. Since March of 1987, I have been Chairman of the Board
9 of Religious Technology Center ("RTC"), a California non-profit
10 religious corporation recognized as tax exempt under Section
11 501(c)(3) of the Internal Revenue Code. RTC is not part of
12 Church management, nor is it involved in the daily affairs of
13 various Church of Scientology organizations or missions. RTC
14 ensures that the trademarks of Dianetics and Scientology, and the
15 technology they represent, are properly used around the world.
16 It exists to see that Dianetics and Scientology technology is
17 safeguarded, is in good hands, and is properly used.

18 8. RTC was formed with the specific purpose of seeing that
19 the religion of Scientology was kept pure and true to the source
20 materials of the religion. In fact, a major reason for its
21 formation was to have such a Church organization that performed
22 these functions in a capacity entirely separate from the actual
23 management of the various Churches and Missions of Scientology.
24 Not only is RTC not involved in the management of the
25 international hierarchy of Scientology churches, but its very
26 existence and performance of its true functions depends on the
27 fact that it is NOT part of Church management. The authority of
28 the Religious Technology Center stems from the ownership of the

1 trademarks of Dianetics and Scientology. In brief, RTC's
2 maintenance of these trademarks is threefold: A) ensuring that
3 when something is represented as Dianetics or Scientology, that
4 it actually is; B) seeing that any organization representing
5 itself as Dianetics or Scientology (and using those names), while
6 actually being something entirely different, is prevented from
7 doing so; and C) seeing that anyone offering Scientology, but
8 calling it something else (a name other than Dianetics or
9 Scientology) is prevented from doing so. I could give various
10 such examples where actions listed in B) and C) have actually
11 occurred, although it is not necessary here. Suffice it to say
12 that when such has occurred, RTC has acted, with litigation when
13 necessary, and has been able to uphold the proper use of the
14 marks in every instance.

15 9. As Chairman of the Board, the most senior position in
16 RTC, I am uniquely interested in the standard application of the
17 Scripture of Scientology as detailed in Hubbard Communications
18 Office Policy Letters (HCO PLs) and Hubbard Communications Office
19 Bulletins (HCOBs) and the spoken words of Mr. Hubbard on the
20 subjects of Dianetics and Scientology as recorded on audio tape,
21 video, film and, in some cases, written transcriptions of these
22 materials. I inspect and correct departures from the standard
23 application of the Scripture of the religion. I also ensure that
24 any attempted perversion of the technology of Dianetics and
25 Scientology is rapidly dealt with, to keep the religion pure so
26 that all people may benefit from the application of Mr. Hubbard's
27 breakthroughs in the fields of the mind, the spirit and life.

28 10. In the course of my duties I travel widely. I often

1 appear at Church events and briefings which serve to keep
2 Scientologists around the world aware of the widespread
3 application of Mr. Hubbard's writings. In all such appearances,
4 my position as Chairman of the Board of RTC is known, as is its
5 distinction from actual Church management officials of CSI. I
6 also oversee the affairs of the Religious Technology Center in
7 its function of verifying that the source writings of the
8 religion are kept pure. This specifically includes the
9 verification that the materials representing themselves as being
10 Dianetics and Scientology are in fact that, and that they
11 honestly reflect the source writings of the religion by L. Ron
12 Hubbard. I also oversee RTC's function of assuring that the
13 trademarks of Dianetics and Scientology are legally registered
14 and kept current in over 190 countries around the world.

15 11. Neither RTC nor I has any corporate authority over any
16 Scientology church, including CSI. CSI is the Mother Church of
17 the Scientology religion and has been since its inception in
18 1981. As such, CSI is responsible for the activities
19 commensurate with such a role, including the ecclesiastical
20 management of Churches, dissemination and propagation of the
21 faith and defense of its activities, including external and legal
22 affairs. All of the foregoing facts were submitted to and
23 thoroughly reviewed by the Internal Revenue Service prior to the
24 recent recognition of the tax-exempt status of CSI, RTC and a
25 host of other Church corporations and entities.

26

27 **FAILURE TO SERVE SUBPOENA**

28 12. Apparently Geertz's counsel made some attempts to serve

1 me with a deposition subpoena in Los Angeles in December of 1993,
2 when I was away from California on business in the United Kingdom
3 and Washington, D.C. I keep a busy schedule that requires
4 extensive travel in the course of handling a wide range of
5 ecclesiastical duties, and my schedule has nothing to do with the
6 presence or absence of process servers. In January, I was away
7 on business in Clearwater, Florida and Washington, D.C. In
8 Washington, I met with the head of Interpol, Raymond Kendall, on
9 one of the days that Geertz's counsel unilaterally set for my
10 deposition. This meeting had been arranged for more than a month
11 and since this individual was travelling all the way from
12 Interpol headquarters in Europe, it was hardly something I could
13 cancel. During that same week, and on another day arbitrarily set
14 for my deposition, I met with IRS officials in a similarly pre-
15 arranged meeting. In fact, I was only home for approximately 25
16 days in all of 1993. I was simply not in the State of California
17 during the entire time in which service attempts on me were
18 apparently being made. I understand this fact was made known to
19 the Magistrate Judge in this case and later to the Court. To
20 this day, I have never received a subpoena in this case.

21 13. Any suggestion that I try to avoid giving testimony is
22 just false. In May of 1992, I testified at a legal proceeding in
23 Toronto, Canada, although there was no legal means to compel my
24 testimony. I testified for four full days in the summer of 1993
25 in Church of Scientology International v. Eli Lilly, et al., a
26 case pending in federal court in Washington, D.C. There are over
27 1100 pages of deposition transcript that comprise that
28 deposition, with very little in the way of objections or

1 colloquy. I did so because I knew my testimony was needed and
2 relevant. In 1990, I was deposed for two full days in Bent
3 Corydon v. Church of Scientology International. In that
4 instance, I was "rewarded" for appearing by having plaintiff's
5 counsel serve me with various subpoenas in other disrelated
6 matters. In both Lilly and Corydon, the opposition first
7 attempted to notice my deposition while concurrently arguing that
8 I would "refuse to appear." In each instance I was forced to
9 refute such nonsense and in fact did appear. To claim that I
10 evade service or avoid being deposed or otherwise avoid giving
11 testimony is nonsense on its face.

12 14. I want the Court to be aware that upon learning that my
13 deposition had been ordered by the Magistrate Judge on January 4,
14 1994 and upon reading the allegations that apparently led to
15 that order, which I first read on January 6, 1994, I consulted
16 with my counsel in this matter, who advised that I seek the
17 Court's review of the Magistrate Judge's order concerning my
18 deposition. At the same time, I also instructed my counsel that
19 in spite of the fact that I had no knowledge of the issues raised
20 in this case, and in spite of the lack of any service of a
21 subpoena on me, and in spite of the fact, as noted above, I was
22 to be out of town for much of January, counsel should try to make
23 arrangements for my deposition to be taken, should the Court not
24 reverse the Magistrate Judge's order. Efforts to make such
25 arrangements commenced on January 10, 1994 and continued through
26 February 4, 1994. I am informed that Geertz's counsel was not
27 willing to discuss a mutually acceptable date for my testimony,
28 particularly at the end of that period, when Geertz's counsel

1 declined even to propose a date for my deposition. In the
2 meantime, while refusing to depose me, he threatens me with
3 contempt for not having been deposed. I am convinced that this
4 entire tactic of attempting to bring me into a case where my only
5 involvement stems from this pursuit of my testimony, is for the
6 purpose of harassment and to forward a litigation tactic of
7 avoiding litigation of the actual case by use of abusive and
8 irrelevant discovery tactics.

9 15. As a result, I feel I should make whatever effort I
10 can to set the record straight on many of the false and
11 inflammatory allegations that have been injected into this case.
12 Therefore, I am using this written declaration to inform the
13 Court of what my testimony would have been. I also am making my
14 testimony available, because of my great concern that my name has
15 been attacked in such a way that the Court has made rulings
16 regarding my appearance based entirely on falsehoods presented by
17 Geertz's counsel and Vaughn and Stacy Young.

18
19 **NO KNOWLEDGE OF DEFENDANTS**

20 16. I first heard the name Steven Fishman in the summer of
21 1990, when it was brought to my attention that someone by that
22 name had been sentenced to prison for mail fraud and obstruction
23 of justice and that in the course of being sentenced, he had
24 referred to me by name and it had been alleged that illegal acts
25 he had committed were as a result of Fishman being "implanted"
26 and caused pain by inserting BIC pens in his penis and forcing
27 him to smell human feces. As I had never heard of Fishman and
28 because the allegations were such tabloid rot, I assumed this was

1 some new form of "insanity defense" and that Fishman had picked
2 my name out of the press or something. I never thought about the
3 matter again, until 1991, when I read the 8 page cover story in
4 Time Magazine concerning CSI in the May 6, 1991 edition. At no
5 time, either before or since I read their names in that magazine,
6 have I met with, spoken to, communicated with or otherwise had
7 any contact or communication of any kind with either Geertz or
8 Fishman. It was when I read that article that I first heard the
9 name Uwe Geertz.

10 17. Geertz has submitted copies of purported correspondence
11 from defendant Steven Fishman to Church members making reference
12 to me as a participant in Fishman's mail fraud crimes. These
13 references to me are pure fiction. Indeed, I have been informed
14 that CSI has filed with the Court an unrebutted declaration of a
15 typewriter expert who concluded that these letters could not have
16 been created on the dates claimed by Fishman.

17 18. Other than the falsified documents of a convicted
18 felon, the defendants have identified no other "evidence" that I
19 even knew Fishman, much less ordered or condoned crimes for which
20 he was imprisoned. Instead, Geertz has submitted two vicious
21 declarations, from Vaughn and Stacy Young, which attack and
22 vilify me personally without reference to any issue in this case.
23 Most significantly, neither of the Youngs ever suggests that they
24 ever heard me or any other senior official in the Scientology
25 religion mention Steven Fishman or Uwe Geertz in their presence.
26 At no time does either one even suggest that they know anything
27 that connects me to any issue in this case. The reason they have
28 failed to do so is clear: they have no such evidence of my

1 involvement with Fishman or Geertz because no such evidence
2 exists.

3 19. Exemplifying the unsupportable, irrelevant and
4 malicious nature of Vaughn Young's personal assault on me is his
5 false and repugnant insinuation that I was involved with the
6 death of my mother-in-law, Mary Florence Barnett. Not only is
7 there no evidence to support this claim by Young, but there is
8 clear evidence to the contrary. With the reports of the coroner
9 and the medical examiner's investigator, and with the deposition
10 of the medical examiner taken by Geertz's counsel at hand -- all
11 to the unanimous, unequivocal conclusion that Ms. Barnett died
12 from self-inflicted gunshots -- Young has the temerity to suggest
13 that I should be investigated to determine what he calls my role
14 in that tragic suicide. With complete disdain for the facts and
15 no regard whatsoever for any sense of decency, Young has taken a
16 personal tragedy in my family's life, the suicide of my
17 mother-in-law, and attempted to make this an issue in this
18 lawsuit by twisting it to imply non-existent wrongdoing on my
19 part. I not only had nothing to do with this tragic incident,
20 but Vaughn Young's gratuitous embellishment that I ordered the
21 matter "hushed up" is equally false. My only association with
22 this tragedy was to console my wife who was understandably
23 emotionally traumatized and grief stricken. Vaughn Young's
24 effort to exploit this tragedy is malicious in and of itself, but
25 his innuendo and attempts to recast the incident, despite the
26 uncontroverted evidence as to the true cause of Ms. Barnett's
27 death, show the depths to which he is willing to sink.

28 20. At this point, I have stated all I know of Steve

1 Fishman and Uwe Geertz and anything that could possibly be
2 relevant to this case. However, Vaughn and Stacy Young have
3 taken it upon themselves to introduce into this case their
4 version of my history with the Church. I cannot understand the
5 relevance of this under any circumstances, but since counsel has
6 now refused to take my deposition while concurrently levelling
7 threats, I feel I am forced to give a brief history of what
8 actually occurred to be in compliance with the Court's order if
9 such is considered relevant, and to show in proper context how
10 Vaughn and Stacy Young are simply incapable of competently
11 testifying to events they have "described" in their declarations.
12

13 **HISTORY OF FALSE ALLEGATIONS**

14 21. False allegations leveled against me in the context of
15 litigation or in the media are nothing new. I raise this point
16 only so that the Court will understand that the sort of
17 scurrilous personal attack on me launched by Geertz's counsel and
18 Vaughn Young is the latest in a pattern of such attacks in
19 litigation over the years. I recognize that it is not uncommon
20 for leaders of organizations and movements to be subjected to
21 such attacks. I can only assume that I am attacked because I am
22 visible as the ecclesiastical leader of the Scientology religion.
23 I note that I am the ecclesiastical leader of the religion, not
24 the Church. The mischaracterization of my role made by the
25 editors of Premiere magazine in an editorial note cannot convert
26 me from the leader of the religion to the head of the Church.
27 Neither can the imprecise use of language by Ted Koppel on ABC's
28 Nightline Show. Both of those erroneous designations are

1 examples of the media not understanding the nature of what I do
2 or the nature of my relationship to the Church. In the case of
3 Premiere, the same article that contained the erroneous statement
4 by the editors, also contained a photo caption which I did
5 compose and which did correctly identify my position as "David
6 Miscavige, Chairman of the Board of Religious Technology Center,
7 Holder of the Trademarks of Dianetics and Scientology." On
8 "Nightline," I was sitting on live, nationwide TV, engaged in
9 rebutting a set up video for the show, containing 15 minutes of
10 false and outrageous charges about Scientology and did not deem
11 it important to pause from correcting those false charges so I
12 could educate Mr. Koppel on matters of corporate structure.

13 22. My name has now been dragged through the mud in this
14 litigation, not only by means of a mean-spirited personal attack,
15 but also as part of what appears to be a tactic of hurling false
16 and irrelevant allegations against Church of Scientology
17 International, the Scientology religion and its Founder. It is
18 unfortunate that I am now put in the position of defending my
19 reputation and refuting lies about my religion that have become
20 part of the record in this case. In that regard, I must note
21 that in reviewing the sordid and outrageous allegations made
22 about me by Geertz's counsel and Mr. Young, I was struck by their
23 technique of using vague, innuendo-filled vignettes and
24 unsubstantiated rumors in an effort to sound authoritative. I
25 was also struck by the way that their declarations attempt to
26 portray normal things as abnormal. I can only submit that trying
27 to make the usual seem strange and trying to color events by
28 innuendo are the tools by which bigotry is crafted and prejudice

1 is spread.

2 23. The personal attacks on me, as well as many other
3 irrelevant and malicious falsehoods that have been brought in
4 this case, have largely been introduced through declarations of
5 Robert Vaughn Young and Stacy Young and forwarded by Geertz's
6 lawyer, Graham Berry. The Youngs left Scientology almost five
7 years ago, have no personal knowledge of the current activities
8 of RTC, CSI, or any other part of Scientology and, by their own
9 admission, have no personal knowledge of the defendants in this
10 case. Neither Vaughn nor Stacy Young ever worked with me or even
11 near me during the entire time I have been employed by RTC. They
12 couldn't possibly testify to any of my activities as RTC's
13 Chairman of the Board since 1987 because they simply were in no
14 position even to observe such activities. They are not experts
15 on anything relating to Scientology, but have apparently been
16 hired to file inflammatory declarations on non-issues in this
17 suit. The Youngs are, however, generally aware of the fact that,
18 through the years, attempts to malign me personally and create a
19 false picture of the Church with sensational allegations have
20 been the stock-in-trade of litigants opposing the Church and the
21 former Scientologists upon whom counsel rely to swear to matters
22 they do not know and to make false allegations for which they
23 have no basis. I believe that the Youngs' awareness of that
24 litigation ploy explains their involvement in this case and
25 defines the role they are playing.

26 24. For example, part of Vaughn Young's attack is his
27 complete mischaracterization of my role in the dismantling and
28 permanent disbanding of the Guardian's Office ("GO"). The

1 Guardian's Office and the fallout that resulted from it is
2 particularly significant as it is the linchpin of a litigation
3 tactic that has been employed for years against me and the
4 Church. Vaughn Young is simply revisiting the same path trod by
5 others before, but as this has now been injected into the case I
6 feel it important to address this matter, even if necessarily
7 briefly.

8 25. Young would have the Court believe that I was an
9 opportunist, using the jailing of Mary Sue Hubbard as a means of
10 taking control of the GO, while leaving its criminally tainted
11 substance unchanged and operating under a different name. This
12 is a complete perversion of the true events, as set forth below.
13 I would not have expected Young to know all of the details of how
14 I directed the disbanding of the GO and the permanent expulsion
15 of its leaders and other wrongdoers, as he was in a low level
16 position in the GO at the time. However, he knows that when the
17 staff of other Church units completely took over the GO offices
18 and put an end to it as an organization, literally hundreds of
19 his fellow GO staff members were dismissed, expelled from the
20 religion, and forever barred from ever holding any position in
21 any Church organization again.

22
23 DISBAND OF THE GUARDIAN OFFICE

24 26. To understand the magnitude of this upheaval, a
25 description of the history, power and authority of the GO is
26 vital. The GO was established in March of 1966 because legal and
27 other external facing matters were consuming the time and
28 resources of Churches of Scientology. In particular, Church

1 leaders were being distracted from their primary functions of
2 ministering to the spiritual needs of their expanding religious
3 communities and building their organizations. During the 1970s
4 the GO operated as an entirely autonomous organization unchecked
5 and unsupervised by the ecclesiastical management of the Church.
6 The power of the GO was absolute. Unless a member of the GO, one
7 could not even enter their locked offices. They held all
8 corporate directorships. They and they alone dealt with legal
9 affairs of the Church. The GO operated in complete secrecy, and
10 conducted its affairs independently of the Church and its
11 management and personnel. Any attempt to find out their affairs,
12 by Church ecclesiastical staff or any Scientologist, was met with
13 the same "treatment" they handed out to others. For instance, GO
14 staff carried out illegal programs, such as the infiltration of
15 government offices for which eleven members of the GO were
16 prosecuted and convicted. There were also instances in which GO
17 staff used unscrupulous means to deal with people they perceived
18 as enemies of the Church -- means that were completely against
19 Scientology tenets and policy, not to mention the law.

20 27. In 1981, a Church investigation was begun into the
21 activities of the GO. That investigation was prompted by the
22 existence of a number of civil law suits which had been filed at
23 that time against Church of Scientology of California and Mr.
24 Hubbard, and which the GO was supposed to be responsible for
25 handling. Not only was the GO not handling these suits, the GO,
26 and particularly Mary Sue Hubbard, even refused to answer our
27 questions about the suits because they viewed themselves
28 answerable only to persons within the GO. My involvement in the

1 purge of the GO arose from my position at the time, Action Chief
2 CMO International. My duties included directing Church
3 missionaries conducting the investigation of the GO to determine
4 the reasons for the GO's ineffectiveness and why the GO had
5 departed from its original purpose.

6 28. Our attempts to get information were thwarted by Mary
7 Sue Hubbard. She informed us that she did not appreciate our
8 investigation of the GO and that if one were needed she would do
9 it. In March 1981 she cut all of our communication lines to the
10 GO, except through herself. It must be noted that Mary Sue
11 Hubbard believed her position as Controller and as the "Founder's
12 wife" to be unassailable and beyond reproach by anyone but Mr.
13 Hubbard -- who was not around at the time, a fact that she was
14 well aware of. This, plus her absolute control of the GO, made
15 it difficult for the Church missionaries to get anything done.

16 29. In April 1981, in an unprecedented move and without
17 Mary Sue Hubbard's knowledge, I sent a mission to the
18 headquarters of the GO in England -- GO World Wide ("GOWW") -- to
19 inspect the Legal Bureau under the guise that it had been
20 authorized by Mary Sue Hubbard. What the mission found confirmed
21 our worst suspicions.

22 30. We discovered that the GO had grossly mismanaged the
23 legal affairs with which it had been entrusted, and displayed a
24 disdain for the basic policies by which a Scientology
25 organization is supposed to be guided. Whatever else the GO was,
26 it was not Scientology, and it was not adhering to Scientology
27 policy. Moreover, the GO continued to withhold from Church
28 management the darkest of its secrets -- the criminal acts

1 committed by GO staff against the United States government and
2 others. We only learned of these crimes when we read copies of
3 GO documents attached as exhibits to court papers filed by
4 litigation adversaries. These documents had been removed by the
5 GO from its own files in order to continue to hide their
6 criminality from the Church. While the FBI had seized these
7 documents in their 1977 raid of the Church, the GO had obtained
8 an order sealing these materials from the public, including the
9 Church. During a short period, the Court had lifted its sealing
10 order and litigation adversaries obtained copies. And that is
11 why we were only able to start discovering these acts when filed
12 by the opposition in civil litigation.

13 31. When further investigation proved the documents to be
14 authentic, it was made clear that we had no choice but to
15 overthrow the GO and dismiss everyone who had violated Church
16 policy or the law. These activities ultimately led to a complete
17 disband of the GO. I gathered a couple of dozen of the most
18 proven Church executives from around the world and briefed them
19 on the criminal and other unethical conduct of the GO. Together,
20 we planned a series of missions to take over the GO, investigate
21 it and reform it thoroughly. On July 13, 1981, a matter of weeks
22 after we had uncovered what was going on, and with no advance
23 warning to the GO, a coordinated series of CMO missions were sent
24 out concurrently to take over the GO.

25 32. However, there were a number of obstacles to overcome
26 before the termination of the GO could be accomplished. Mary Sue
27 Hubbard was still asserting her authority over the GO from her
28 position as Controller. Contrary to Young's statements, she was

1 not in jail, but was still very much in control of the GO. At
2 the same time, Mary Sue Hubbard was covertly attempting to expand
3 her power through her friendship with and influence over Laurel
4 Sullivan, a Church staff member who was in charge of a project
5 she referred to as the "MCCS project" -- the purpose of which was
6 to "sort out" the corporate structure of Church of Scientology of
7 California.

8 33. Instead of addressing a sensible reorganization of that
9 Church, Sullivan and her GO supporters were making their own
10 plans to establish trusts and for-profit entities which would
11 have placed even greater corporate control of the Church in the
12 hands of Mary Sue Hubbard and other GO executives in a fashion
13 that would have assured the permanency of GO dominance and power.

14 34. Shortly before the purge of the Guardian's Office, I
15 discussed with Laurel Sullivan various illicit GO activities we
16 had already uncovered. Sullivan was aware of these activities.
17 Sullivan did not agree that the acts the GO had committed were
18 atrocious and that Mary Sue Hubbard and the rest of her criminal
19 group needed to be removed. She insisted that Mary Sue Hubbard
20 remain in power and that at all costs she and the Guardian's
21 Office should maintain total control of the organization
22 regardless of the criminal acts exposed by the government and
23 others, in which Sullivan felt the GO was completely justified in
24 committing.

25 35. Upon learning of Laurel Sullivan's alliance with the GO
26 and the plans to reorganize the Church under Mary Sue Hubbard and
27 her GO allies, I removed Sullivan from her position and disbanded
28 the MCCS project altogether. In fact, recently released

1 documents reveal that Laurel Sullivan -- who would later become
2 an adverse witness against the Church and me -- long ago admitted
3 to law enforcement officials that the corporate restructuring of
4 the Church actually implemented, differed entirely from that
5 envisioned in her MCCS project.

6 36. Contrary to Young's claims, Mary Sue Hubbard was
7 removed from her post before she went to jail. I know, because I
8 personally met with her and obtained her resignation. Vaughn
9 Young was not present at that meeting nor was he present at any
10 of the events described here. He does not and cannot know what
11 occurred. I do. At first, Mary Sue Hubbard was not willing to
12 resign. Eventually she did so. Mary Sue Hubbard and the GO,
13 however, did not simply capitulate.

14 37. Within a day of Mary Sue Hubbard's resignation, senior
15 GO officials secretly met with Mary Sue Hubbard and conspired to
16 regain control of the GO. Mary Sue Hubbard signed a letter
17 revoking her resignation and condemning the actions of the CMO.
18 Scores of GO staff responded, locking the missionaries out of
19 their premises and were intending to hire armed guards to bar
20 access by me and the other Church officials who had ousted them.
21 I then confronted the mutineers, and persuaded Mary Sue Hubbard
22 to again resign, which ended the last vestige of GO resistance.

23 38. When it was decided that cleaning up and maintaining
24 the Guardian's Office in any form was not workable and that it
25 needed to be disbanded altogether, this was accomplished by a new
26 series of CMO Int missions sent to GO offices around the world.
27 The pattern of the missions was to remove all GO staff from their
28 positions and put them on estates work and physical labor around

1 the church. Before being disbanded the GO's Finance Bureau had
2 monitored some aspects of the Church's finances, including the
3 production of and maintenance of accounts and financial records.
4 With the disbanding of the GO, this function was taken over by
5 the International Finance Network, where it remains. Public
6 relations activities were put under the direction and supervision
7 of the L. Ron Hubbard Personal Public Relations Officer
8 International and his staff. All GO social betterment functions
9 - drug rehabilitation, criminal rehabilitation and educational
10 reform, were taken over by a new organization known as Social
11 Coordination. Later this function was assumed by Association for
12 Better Living and Education ("ABLE"), recognized as a tax-exempt
13 organization by the IRS. To administer legal affairs, the Office
14 of Special Affairs ("OSA") was formed from a mixture of Sea Org
15 staff who had been on one or more of the missions that had
16 disbanded the GO, new staff recruited to work in the area and
17 some former GO staff who had survived investigation and scrutiny
18 and had undergone ethics clean-ups relating to their former
19 affiliation in the GO. Completely unlike the GO, the Office of
20 Special Affairs is not an autonomous group. OSA International is
21 part of the Flag Command Bureaux and the highest OSA management
22 position is that of CO OSA Int. The Watchdog Committee has a WDC
23 member, WDC OSA, whose sole job is to see that OSA Int
24 effectively performs its functions and operates according to
25 Church policy. Local OSA representatives, called Directors of
26 Special Affairs, are staff at their local church subject to the
27 supervision of the church's Executive Council.

28 39. To further ensure that the old GO influence was

1 completely terminated, all "Guardian Orders," the non-standard
2 issues which GO staff followed instead of Mr. Hubbard's policies,
3 were canceled. These numbered in the thousands. Today, none of
4 the individuals involved in the criminal activities of the
5 Guardian's Office are serving on the staff of any organization
6 within the Church hierarchy. During the years 1981 through 1983,
7 the Church kept a record of the names of individuals we found to
8 have been involved in illegal activities, who condoned them, or
9 who were in a position where they should have known and done
10 something to stop them. Any individuals who were found at that
11 time to be on staff were dismissed and informed never to apply
12 for re-employment. A list of names of ex-GO members either
13 involved in, condoning, or being in a position to stop criminal
14 acts is maintained by the International Justice Chief (IJC) at
15 Flag Bureaux. Church organizations are required to check with
16 IJC prior to hiring any ex-Guardian's Office staff member; that
17 means anybody who was ever employed by the GO, whether he was
18 involved in or cognizant of any criminal acts or not. The IJC
19 then checks the names against the list of those banned from staff
20 and informs the local Church organization whether it can hire the
21 individual or not. The Church has thus ensured that no
22 individuals involved in the criminal activities of the GO ever
23 serve on staff. Ironically, the lone exception, discussed below,
24 was created by Vicki Aznaran.

25 40. Vaughn Young displays his ignorance of the actual facts
26 concerning the dissolution of the GO, for this was no mere
27 "cosmetic alteration," as he so ridiculously asserts. In a police
28 interview, Laurel Sullivan, the GO ally and architect of the

1 stillborn M CCS project, characterized the purge of the GO as a
2 "blitzkrieg," in marked contrast to Vaughn Young's vastly
3 understated description. It was, in fact, a major, dramatic, and
4 permanent overhaul, with over 800 GO staff dismissed as
5 unqualified or because of their disagreements with Church
6 policies or because of their complicity in criminal conduct. It
7 required approximately 50 separate missions to purge the GO.
8 The posts of Guardian and Controller were abolished.

9 41. As a direct result of the GO corruption and its
10 ultimate overthrow, the Church embarked on a complete corporate
11 reorganization, in part to prevent such criminality from ever
12 occurring again and to make sure a "new GO" could never come
13 about. This is where CSI and RTC came into existence and the
14 reasons for their place in the Church hierarchy are clearly
15 stated in the Church of Scientology International reference book
16 What is Scientology?

17 NOVEMBER 1, 1981

18 The Church of Scientology International was founded,
19 signaling a new era of Scientology management. A
20 strong standardized corporate structure was required to
21 facilitate the rapid expansion of Scientology and
22 maintain high ethical standards in a widespread
23 international network of churches. This followed a
24 series of Sea Org inspections that discovered that the
25 Guardian's Office (which had been established in 1966
26 to protect the Church from external attacks and care
27 for its legal matters) had become entirely autonomous
28 and corrupt. The Guardian's Office had been

1 infiltrated by individuals antithetical to Scientology
2 and had become an organization that operated completely
3 apart from the day-to-day activities of the Church.
4 Their secret actions in violation of Church policy had
5 resulted in eleven members being jailed for obstruction
6 of justice. Sea Organization executives overthrew the
7 Guardian's Office and disbanded it. Part of the
8 measures taken to ensure a similar situation could
9 never recur was the formation of the Religious
10 Technology Center on 1 January 1982. L. Ron Hubbard
11 bestowed the trademarks of Scientology to RTC, whose
12 purpose is to safeguard the proper use of the marks and
13 ensure they remain in good hands and are properly used.

14 42. Vaughn Young calling the dismantling of the GO
15 "cosmetic" is the functional equivalent of someone referring to
16 World War II as a "tiff." He wasn't where the dismantling
17 occurred, he doesn't know what happened, and he has no clue.

18 43. It is important to point out how far from the actual
19 practice of Scientology the GO had departed and to point out the
20 reason that Young is attempting to trivialize the purge of the
21 GO. Unless Young characterizes the GO dismantling as "cosmetic,"
22 he cannot argue that his allegations of what he calls "Fair Game"
23 continued to be committed after the GO was eradicated. It is a
24 standard ploy for opposing litigants to point to the GO and
25 allege "Fair Game" being practiced today on the basis of what the
26 GO did thirteen or more years ago. In Young's "Fair Game"
27 accusations, he is merely trying to stigmatize the Church today
28 by dredging up the type of illicit activity in which the GO

1 indulged and falsely ascribing it to the people who are
2 responsible for ridding Scientology of the GO. What the GO did in
3 the 1970's was not pursuant to "Fair Game." One should call
4 their actions by the precise term that describes them: illegal.
5 But which side was Vaughn Young on during the early 1980s when
6 all of this criminal conduct came to light? I was cleaning out
7 the GO; Young was in the GO. We became aware of the acts of the
8 Guardian's Office and were more horrified by the GO and its
9 crimes than law enforcement officials and others outside the
10 Church. Eleven people were indicted by the authorities; we
11 discharged 800 GO staff. There isn't one iota of evidence
12 concerning my involvement in any GO activities, or that of any
13 other current Church executive. None of us had any involvement in
14 the GO other than to obliterate it forever. Moreover, there isn't
15 one iota of evidence that any current Church staff or executive
16 ever engaged in any conduct reminiscent of the GO.

17 44. Once the Guardian's Office was disbanded there was much
18 that needed to be done to deal with the legal and public
19 relations matters that had been mishandled by that office for so
20 many years. The years of neglect and the GO's destructive acts
21 had put the Church in a position where it was repeatedly being
22 attacked in civil cases, and even the Founder of the religion was
23 being pulled into these suits, despite the fact that he had no
24 connection with any of the claims or acts alleged by civil
25 litigants.

26
27 FORMULATION OF AUTHOR SERVICES

28 45. Mr. Hubbard took no part in the disbanding of the GO or

1 removal of Mary Sue Hubbard. In fact, the first he heard of it
2 was five months after the initial purge, in July of 1981. While
3 he had been out of communication and uninvolved in Church
4 activities for the previous two years, he had engaged in further
5 researches on Dianetics and Scientology. More relevant, however,
6 was that he had also, for the first time since the release of
7 Dianetics in 1950, resumed his writing of fiction. Mr. Hubbard
8 understood that the representation of these works and their
9 publication could not be handled within the Church. Accordingly,
10 in 1982, Author Services was formed to manage the personal
11 affairs of L. Ron Hubbard including his literary, financial and
12 legal matters. As I was held in some regard by Mr. Hubbard, I
13 was given the opportunity to be part of this new endeavor.
14 Beginning in 1982, I devoted my full time and attention to Mr.
15 Hubbard's personal affairs from my position as Chief Executive
16 Officer of Author Services. Young's contention that I was
17 somehow managing all Scientology Churches internationally at the
18 same time that I was supervising Mr. Hubbard's affairs is
19 preposterous.

20

21 **FALSE ALLEGATIONS AS A LITIGATION TACTIC**

22 46. Since the purge of the GO, I have been repeatedly
23 forced to deal with the points of false allegations that Mr.
24 Young has made here, as well as other lies circulated by a
25 handful of the very individuals I had kicked out. I have become
26 the target of attack for the activities of the very individuals I
27 purged from the Church. In this litigation, Fishman has made
28 numerous allegations about my "involvement" in his criminal

1 enterprise. These allegations are not only false, but resulted
2 in his criminal conviction. Vaughn and Stacy Young have littered
3 the record of this matter further by giving "expert" testimony to
4 support Fishman's allegations by stating, "they might have
5 occurred" based on the acts of the old GO. This is not the first
6 time this tactic has been used as a litigation ploy to harass me
7 and divert the Court's attention from the actual facts in
8 litigation. Each time similar allegations have been raised in
9 the past, however, I have been completely vindicated.

10 47. The first bizarre episode -- of which Mr. Young is
11 aware, but of which he makes no mention -- illustrates Mr.
12 Young's knowledge of the tactic of generating false allegations
13 as a litigation ploy. This particular episode led to an FBI
14 investigation and a bogus lawsuit, but ultimately led to complete
15 exoneration of me. Shortly after I became Chief Executive
16 Officer of ASI, a call came in to ASI from a New England-based
17 bank. The phone caller was calling to verify that a check
18 supposedly signed by Mr. Hubbard should be cleared. After
19 ascertaining that the check was not valid, I stopped payment on
20 it in my capacity as the Chief Executive Officer of Mr. Hubbard's
21 personal, business and literary agency. The matter of this
22 forged check, however, assumed even greater proportions when a
23 so-called "probate" action was commenced against the "estate" of
24 L. Ron Hubbard.

25 48. The probate action was filed by a Boston-based
26 personal injury attorney who induced Ron DeWolfe (L. Ron
27 Hubbard's estranged son who had long since been written out of
28 his will), to claim that Mr. Hubbard's estate was being looted

1 and that DeWolfe should be appointed to "protect it." This
2 Boston attorney was the same one who had pending literally dozens
3 of damage suits naming Mr. Hubbard and which portrayed the Church
4 and the religion's Founder in the most outrageous and prejudicial
5 manner imaginable. Yet, suddenly, in the probate action, that
6 lawyer was suing to "protect" Mr. Hubbard's estate.

7 49. To buttress the false claim that Mr. Hubbard's estate
8 was being looted, DeWolfe and his lawyer made reference to the
9 forged check mentioned above. I had no idea how they were aware
10 there had been an attempt to pass a forged check on Mr. Hubbard's
11 account. Upon examining the facts we were able to develop, we
12 learned that the bank had informed the FBI about the forged
13 check, and that the first and only person the FBI contacted for
14 information was this same Boston attorney, who told the FBI that
15 I, one of Mr. Hubbard's closest and trusted friends, was the most
16 likely candidate to have committed the forgery! As a result, I
17 became the target of an FBI investigation, even though I had been
18 the one who stopped payment on it when I was alerted to the
19 check's existence. Eventually, the entire probate case was
20 dismissed and I was cleared of any involvement with the forgery.
21 Nonetheless, I had been unjustly subjected to negative press in
22 all manner of media publications literally all over the world.
23 Furthermore, this incident of the forged check and the probate
24 case marked the emergence of a new litigation tactic, one that
25 Vaughn Young and Geertz's counsel are trying to exploit here.

26 50. Upon the dismissal of the probate action, DeWolfe's
27 attorney announced that his "real" purpose in bringing the
28 probate action had been to force Mr. Hubbard out of seclusion so

1 he could be served in the civil damages cases filed by DeWolfe's
2 lawyer. The idea was simple. Aware that Mr. Hubbard wanted to
3 maintain his privacy and seclusion, the lawyer would notice
4 Mr. Hubbard's deposition as both an individual and as a "managing
5 agent" of the Church. Default or settlement then would follow a
6 managing agent finding and non-appearance. This ploy was
7 particularly effective since Mr. Hubbard went completely out of
8 touch with any and all Church entities from May of 1984, until he
9 passed away in January of 1986. Even if they had so desired, the
10 Church was literally incapable of presenting Mr. Hubbard for
11 deposition to give testimony to end this ruse. Vaughn Young knew
12 that Mr. Hubbard was not in communication with the Church during
13 the time that ploy was being pursued. Vaughn Young also knew
14 this litigation tactic, and his knowledge of it is evident in
15 this case. It is precisely what is happening here, except
16 Young's false claims of managing agent of the Church status are
17 directed at me.

18 51. I am not L. Ron Hubbard, nor am I in seclusion. I am
19 visible and I testify. Most of all, as set forth in detail
20 above, I am not CSI's managing agent, and Vaughn Young's attempt
21 to characterize me as such collapses from the weight of his
22 ignorance of the corporate, tax, legal and financial structures
23 of RTC, CSI, and every other Church-related organization.
24 Ironically, this tired litigation tactic was finally put to rest
25 with respect to L. Ron Hubbard hours before his death on January
26 24, 1986, when Judge Mariana R. Pfaelzer definitively ruled that
27 L. Ron Hubbard was not the managing agent of any church. A copy
28 of that order is annexed as Exhibit A.

1 52. Next, I was subjected to a two and a half year criminal
2 investigation by the Internal Revenue Service. Ironically, the
3 very people I had kicked out of the GO exploited the government's
4 concern over acts the GO had committed to make me the target of
5 an investigation based on the very acts they had committed. Of
6 course they didn't make their previous associations with the GO
7 known. In fact, the IRS's Criminal Investigation Division
8 ("CID") was based on specious allegations filed in civil
9 litigation and spread in the media. The thrust of the
10 investigation was an alleged criminal conspiracy begun in 1966 to
11 impede the Internal Revenue Service. I was the primary target of
12 this investigation even though I was only six years old when I
13 began the "conspiracy."

14 53. The CID's massive investigation was ultimately rejected
15 outright by the Justice Department. However, the IRS dossier on
16 me, an accumulation of over 100,000 pages of documents -- the
17 largest in the Service's history -- was filled with falsehoods
18 from a handful of bitter former Scientologists and ex-GO like Mr.
19 Young. It contained the same allegations that have been
20 repeatedly disproved, but which are nevertheless being made again
21 in this case.

22 54. For example, Mr. Young repeats the allegations made by
23 Gerry Armstrong that the Church practices "Fair Game" and that
24 Gerry Armstrong was in "fear of his life." To bolster the
25 validity of this allegation, Vaughn Young refers to the
26 Breckenridge decision. What Mr. Young fails to disclose,
27 however, is the fact that following that opinion, Armstrong was
28 proven a liar. In a police-sanctioned investigation, Gerry

1 Armstrong was captured on video tape acknowledging his real
2 motives, namely a plot to overthrow the Church leadership and
3 gain control of the Church. On those very video tapes, Armstrong
4 acknowledges he not only isn't "afraid," but that he "will bring
5 the Church to its knees." While plotting his overthrow attempt
6 he gives advice that the Church should be accused of various
7 criminal acts. When told no evidence exists to support such
8 "charges," he responds, "just allege it." It should be noted
9 that while Gerry Armstrong had been an "informant" during the IRS
10 criminal investigation, based on these tapes and statements, the
11 IRS dropped him as a witness, thereby repudiating his
12 credibility. Vaughn and Stacy Young were fully aware of these
13 facts as Stacy wrote the cover story in Freedom Magazine that
14 exposed Armstrong's plot.

15 55. The steady barrage of such falsehoods poisoned the IRS
16 with respect to the Church generally and me personally. Years
17 later, IRS Internal Security agent Keith Kuhn filed a declaration
18 in several cases, falsely accusing me of threatening another IRS
19 agent with whom I had never spoken in my life. That declaration
20 was stricken as unsupported and scurrilous, and the IRS was
21 ordered by Judge Keller of this Court to pay sanctions for having
22 filed it at all. [Ex. B, Order and transcript, Church of
23 Scientology of California v. IRS, No. CV 90-5638 WDK (C.D.Cal.)]

24 56. The attempts to harass me in litigation have extended
25 to creating not just false allegations, but false documents as
26 well. In 1984, a former staff member, who was employed by a
27 splinter group that was seeking to pull Scientologists away from
28 the Church for the splinter group's profit, created a forged

1 document entitled SMASH THE SQUIRRELS which was allegedly written
2 by me and which purported to show that I intended some form of
3 harassment towards apostates of Scientology. One would normally
4 ignore such wild incidents, except this document was continuously
5 used against me in litigation, most particularly to prevent me
6 from gaining access to government files on me. I have had to
7 fight this issue for years and only last year was this matter put
8 to rest. This document was recently examined in a Freedom of
9 Information Act case, Miscavige v. IRS, No. CV 88-7341 TJH
10 (C.D.Cal.) by Special Master Jack Tenner, who found that it was,
11 in fact, a forgery and could not be used in court. That decision
12 was affirmed by Judge Hatter of this Court. [Ex. D, Order of
13 Judge Hatter.] Even though this document has been ruled to be a
14 forgery, Geertz's attorneys have now referred to it and seek to
15 use it in this case as if it were real.

16 57. Perhaps the most telling indication that the allegations
17 made by Mr. Young and other apostates regarding corporate and
18 financial affairs of various Church entities are false, is the
19 recent recognition of the tax exempt status of all Scientology
20 Churches in the United States by the IRS. This recognition of
21 exemption followed the most exhaustive review of financial
22 records and corporate structure of any exemption application ever
23 filed. That process is described in detail in the accompanying
24 declaration of Monique E. Yingling. [Ex. C.] As part of the
25 exemption process, the IRS also considered and rejected virtually
26 all of the same allegations that are now being made against me in
27 this case. These discredited and untrue charges should not have
28 to be dealt with time and time again. After the most extensive

1 review in IRS history, to have uninformed apostates
2 second-guessing the IRS's determination, and regurgitating false
3 claims that the IRS and Courts have rejected again and again,
4 putting me in the position of defending against the same old
5 allegations, is ludicrous! This has to end somewhere, as it is
6 not just wasting my time, but the Court's time as well. All the
7 while further false accusations are made that the Church likes
8 litigation. Magistrate Tassopoulos stated on January 4, 1994,
9 "You know you people enjoy the fight..." To the degree this
10 statement is directed at me, she is just wrong. I despise
11 litigation and in fact know of no Scientologist who enjoys it.
12 However, we have been forced to defend ourselves because of
13 unfounded allegations the courts seem too willing to accept or
14 which they are incapable of preventing.

15
16 **THE YOUNGS' LACK OF KNOWLEDGE OF SCIENTOLOGY CORPORATE MATTERS**

17 58. Putting aside Mr. Young's familiarity with the tactic
18 of maligning the Church and me as a litigation weapon, I simply
19 do not understand from where Mr. Young purports to derive his
20 self-proclaimed "expertise" about Scientology as a religion, or
21 about the corporate, legal, or financial affairs of RTC, CSI, or
22 any other Scientology organization. I know Mr. Young, having
23 worked with him briefly on specific projects in 1981 and 1983,
24 and once held him in some personal regard. He never occupied any
25 position of corporate or ecclesiastical authority in any Church
26 or in ASI, and certainly did not have any significant personal
27 exposure to how the corporate or ecclesiastical structure of
28 Scientology is established or how it works. He cannot claim any

1 personal knowledge in that regard since July of 1989. At no time
2 did he occupy any "inner circle" in Scientology leadership and,
3 in candor, he was never in any position to have any knowledge of
4 what I do or how I do it. To that I must add that despite his
5 outrageous claim to the contrary, I never in my life laid a
6 finger on Vaughn Young, let alone beat him unconscious or
7 otherwise, as he claims. Indeed, this allegation only surfaced
8 once he attempted to enmesh me in this case. It is absurd on its
9 face for Mr. Young to have omitted this alleged incident from his
10 earlier affidavits which purportedly cited the reasons "why he
11 left the church." In my mind, his need to invent complete lies
12 such as this reveal that his motives are personal, his character
13 is spiteful, his aim is money, and his means to those ends know
14 virtually no limits.

15 59. Vaughn Young completely misstates my relationship to
16 the plaintiff Church of Scientology International. Young claims
17 that I somehow direct, manage and control every facet of CSI's
18 operations and activities. This also is ludicrous. CSI has well
19 over a thousand staff members who deal with international
20 promotion and dissemination efforts, evaluate situations in
21 Scientology churches around the world, and provide plans and
22 programs that give guidance to these churches. This is the
23 activity of international and middle management of CSI, which has
24 an entirely different purpose and sphere of activity than RTC.
25 My job as Chairman of the Board involves many functions, but does
26 not include management of CSI or any other Scientology church. I
27 do not create corporate strategy nor do I direct or manage the
28 personnel of CSI. I do not remove CSI's directors or officers. I

1 do not run CSI or its executives. Anyone who would testify to
2 the contrary is either uninformed or untrustworthy.

3 60. The Youngs have chosen not only to malign me
4 personally, but also to attack the very religious beliefs and
5 practices which they once professed to follow. Although the
6 religious nature of Scientology has been recognized by courts and
7 administrative bodies throughout the world for decades, the
8 defendants and their witnesses are attempting to enter the
9 constitutionally forbidden area of judicial evaluations of
10 religious tenets by placing the meaning and efficacy of religious
11 beliefs and practices of Scientology on trial. Deliberately
12 distorted interpretations of Scientology religious doctrine have
13 been filed in this Court concerning Scientology concepts such as
14 PTS Type 3 and Black Dianetics. At the same time, defendant
15 Steven Fishman has also invented entirely fictitious terms such
16 as "EOC," and claimed that they are part of Scientology. They
17 are not. His claim that there is anything in the Scientology
18 religion that even resembles a directive to commit murder or
19 suicide is as outrageous as it is ridiculous. These are all
20 total misrepresentations of religious doctrine made by people who
21 are not in the least qualified to make doctrinal judgments. I can
22 say categorically that "EOC" does not exist in Scientology, and
23 the concept ascribed to it in this case by the defendants is
24 false and scandalous.

25 61. Young tries to gain credibility by stating he was one
26 of maybe ten people summoned to Mr. Hubbard's ranch when he
27 passed away. He was not the first to be called, but arrived with
28 a cook, a carpenter, gardeners, and a guard. More importantly,

1 the press on LRH's passing away was not handled from the ranch.
2 Vaughn Young was at the ranch to deal with any local inquiries
3 and with the neighbors and farmhands who had been friends of Mr.
4 Hubbard, and he worked under the guidance of another ASI staff
5 member.

6 62. Young also mentions Pat Broeker, and attempts to
7 position Broeker as someone who had power and legitimacy within
8 the Church structure. Young, who never held a senior management
9 position during the entirety of his time in the Church, falsely
10 claims that there was a power struggle between Broeker and me
11 after the death of L. Ron Hubbard. This assertion demonstrates
12 Young's lack of knowledge of the actual corporate structure of
13 the Church. Pat Broeker was neither an officer nor a director
14 nor a trustee of Religious Technology Center, CSI or any other
15 Church corporation. It was only an ignorant and destructive
16 few, such as Vaughn Young and Vicki Aznaran, who ever believed or
17 supported Broeker's claims to authority. No removal of Pat
18 Broeker occurred or was necessary. He simply did not hold any
19 position in any Church corporation. Vicki Aznaran, on the other
20 hand, was removed from her position as President and Inspector
21 General of RTC. She herself has testified to the reasons for her
22 removal -- employing an ex-GO staff member involved in criminal
23 acts and allowing false Church scriptures to be presented as
24 authentic writings of Mr. Hubbard, when she knew they were not.

25 63. All of the foregoing should be viewed in the context of
26 Scientology being a new, evolving religion. Although
27 unfortunate, all emerging religions in history have gone through
28 a period of turmoil, especially following the death of its

1 Founder. Scientology is no exception. However, we have entered
2 into an extended period of calm and expansion since these
3 upheavals in the 1980s. The resolution of the long-standing
4 conflict with the IRS is perhaps the best indicator of this.
5

6 "OF AND CONCERNING" CSI

7 64. The only issue mentioned by the defendants in
8 connection with taking my deposition which is even arguably
9 relevant to this case is the so-called "of and concerning" issue.
10 That can be disposed of in a few sentences. When a person makes
11 a statement about "Scientology" or the "Church of Scientology,"
12 the most reasonable conclusion is that the reference is to CSI.
13 CSI is the Church corporation that is viewed as "Scientology" by
14 the public at large. Major Scientology publications found in
15 public bookstores regularly contain introductory remarks from
16 CSI. For example, the book What is Scientology?, which has just
17 recently been distributed in paperback around the country, has an
18 introduction from CSI. Freedom Magazine, which Stacy Young tried
19 to sever from the Church, proudly states that it is published by
20 CSI. Likewise, when a Scientology spokesman is wanted by the
21 media for virtually anything about "Scientology" or the "Church,"
22 they routinely contact CSI. When the IRS recognized CSI as tax
23 exempt and established a group exemption so that new churches
24 could immediately become tax exempt on the authority of the
25 Mother Church, it was CSI to whom the group exemption authority
26 was given. It certainly is reasonable for the public to
27 understand statements about "Scientology" and the "Church" as
28 referring to CSI.

1 CONCLUSION

2 65. The thrust of the declarations filed by Vaughn and
3 Stacy Young is that the allegations made by Fishman should be
4 believed. This is remarkable in itself since the Youngs have
5 apparently never met him and never knew him. They appear
6 completely willing to accept this convicted felon at face value,
7 although he served a prison sentence for obstructing an FBI
8 investigation of his financial scam, by telling the same lies
9 about the Church that he is telling this Court. The Youngs
10 devote pages to descriptions of a "Fair Game" policy that no
11 longer exists. Yet they are silent as to their own experiences
12 between the time they left the Church in 1989 and the time they
13 began their careers as paid for hire witnesses. What did happen
14 after they left the Church? There was no harassment. They were
15 free to leave, which they did. We got on with our lives and paid
16 them no attention. Now, nearly five years later, they have
17 resurfaced, making outrageous accusations and participating in an
18 effort to resurrect in this case the tactics of the GO of which
19 Vaughn Young was once a part. The conclusion that necessarily
20 flows from those facts is that the only reason that the Youngs
21 feel safe enough to make their outrageously false allegations of
22 bad conduct and harassment against the Church and me is because
23 they know there will be no "Fair Game" retaliation, thanks to my
24 kicking out the GO and putting a permanent end to their abuses.

25 66. Since 1981, I have heard this allegation of Fair Game
26 literally thousands of times. Yet, I had never even heard the
27 term until I saw it used in civil litigation, and to this day
28 have never once heard the term used within the Church. Nor have

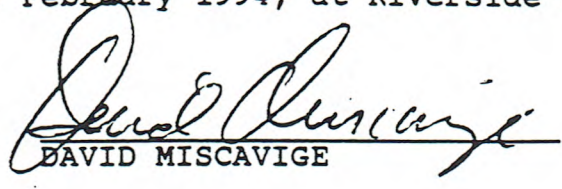
1 I ever heard, even from civil litigants, anything actually done
2 to them. Its use is strictly as a smear tactic when one has no
3 act to point to. Vaughn and Stacy Young know the trick and since
4 they know the truth about the use of this tactic against
5 Scientology, I find their declarations particularly disingenuous.

6 67. The foregoing represents what testimony I believe I had
7 to give in this case had Geertz's counsel not refused to take the
8 deposition of me that he persuaded the Magistrate Judge to order.
9 The essence of the matter is this -- I do not know Fishman and I
10 do not know Geertz, and as to my knowledge of either of them,
11 either before or after the Time magazine article, it is nil.
12 Having no basis to seek my testimony in this case, Geertz's
13 counsel resurrected the same tactics that adversaries have
14 employed for years in litigation involving the Church, namely the
15 employment of hired guns like Vaughn and Stacy Young, to make
16 allegations about matters of which they know nothing. Unlike the
17 Youngs, I know the facts about the matters they address. Unlike
18 the Youngs, I was there. Their self-proclaimed and completely
19 non-existent "expertise" is a disingenuous litigation tactic in
20 pursuit of harassment, and that "expertise" is shown to be
21 fiction crafted for hire and evidence of nothing. The GO was
22 disbanded with finality and the criminals within were forever
23 banished. The IRS attacks were brought to a conclusion with
24 finality. I did those things; the Youngs did not. I know those
25 facts; the Youngs do not. The Youngs present nothing but dusted-
26 off, discredited allegations that cannot withstand scrutiny. I
27 have provided the Court with an accurate, first-hand account of
28 the facts.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

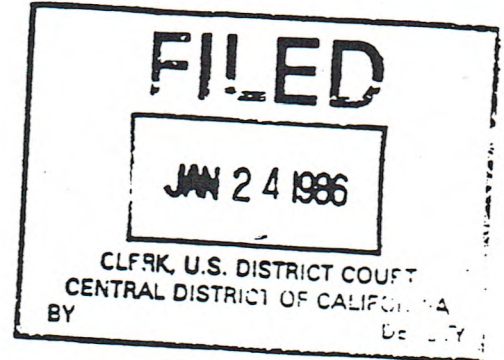
I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 2th day of February 1994, at Riverside County, California.


DAVID MISCAVIGE

1 JOSEPH A. YANNY, ESQ.
JOHN T. JACOBBS, ESQ.
2 HERZIG & YANNY
1900 Avenue of the Stars, Suite 1520
3 Los Angeles, California 90067

4 MICHAEL I. LEVANAS, ESQ.
OVERLAND, BERKE, WESLEY, GITS,
5 RANDOLPH AND LEVANAS
2566 Overland Avenue, 7th Floor
6 Los Angeles, California 90064
Telephone: (213) 559-8150



7 Attorneys for Plaintiffs and Counterdefendants

8 IN THE UNITED STATES DISTRICT COURT

9 FOR THE CENTRAL DISTRICT OF CALIFORNIA

10 RELIGIOUS TECHNOLOGY CENTER, et al.,)

11 Plaintiffs,)

12 vs.)

No. CV 85-711-MRP

13 ROBIN SCOTT, et al.,)

14 Defendants.)

ORDER ON PLAINTIFFS'
MOTION FOR
RECONSIDERATION
OF MAGISTRATE BROWN'S
RULING

15 _____)
16 AND RELATED COUNTERCLAIMS)

17 By notice of deposition dated August 21, 1985, and
18 served by mail August 23, 1985, Defendants noticed for
19 September 16, 1985, the deposition of L. Ron Hubbard in his
20 alleged capacity as an officer, director, or managing agent
21 of Plaintiffs. Mr. Hubbard did not appear for this
22 deposition. Instead, Plaintiffs moved for a protective
23 order stating that they have no obligation to produce L.
24 Ron Hubbard, an unserved party to this action, for
25 deposition pursuant to Rule 30 because he is not an officer,
26 director or managing agent of any of the Plaintiffs.
27 Defendants, by cross motion, sought, in the alternative,
28

1 either to compel the deposition of Mr. Hubbard or to have
2 invoked the ultimate sanction of dismissal of Plaintiffs'
3 pleadings.

4 Magistrate Brown denied Plaintiffs' Motion for a
5 Protective Order and granted Defendants' Motion to Compel
6 the testimony of Mr. Hubbard. Magistrate Brown ordered that
7 Mr. Hubbard appear for his deposition at 10:00 a.m. on
8 December 6, 1985, at the offices of attorney Gary M.
9 Bright, 18 Marine Center Building, Santa Barbara Breakwater,
10 Santa Barbara, California.

11 On November 29, 1985, Plaintiffs filed a Motion for
12 Reconsideration of Magistrate Brown's ruling. The Motion for
13 Reconsideration has been fully briefed and the Court has
14 considered all briefs and declarations submitted to
15 Magistrate Brown and to this Court, as well as the oral
16 arguments of counsel presented at a hearing before this
17 Court on January, 21, 1986. The Court has also examined the
18 issues involved in this case as revealed in the pleadings,
19 discovery and declarations on file. The Court has also
20 considered the evidence adduced at an evidentiary hearing
21 on the issuance of a Preliminary Injunction in the related
22 case of Religious Technology Center, et al., v. Larry
23 Wollersheim, et al., United States District Court, Central
24 District of California, No. CV 7197-MRP. On the basis
25 thereof, the Court rules and orders as follows:

- 26 1. The Defendants have failed to sustain the burden of
27 showing that the information sought to be obtained through
28 the proposed deposition of L. Ron Hubbard is relevant to

1 the subject matter involved in the pending action, or that
2 the information sought is reasonably calculated to lead to
3 the discovery of admissible evidence.

4 2. Although there is evidence that L. Ron Hubbard is
5 the Founder of the religion of Scientology and is accorded
6 reverence and respect by Scientologists, Defendants have
7 failed to sustain the burden of showing that L. Ron Hubbard
8 has been an officer, director or managing agent of any
9 corporate Plaintiff at any time relevant under Rule 30
10 F.R.C.P., or during the period commencing with the so
11 called Robin Scott theft in Denmark on December 9, 1983 to
12 the present.

13 3. It is ORDERED that the Plaintiffs Motion for
14 Reconsideration of Magistrate Brown's ruling is allowed and
15 that, upon such reconsideration, the Plaintiffs' Motion for
16 a Protective Order that such deposition not be taken is
17 allowed and the Defendants' motion, in the alternative,
18 either to compel the deposition of Mr. Hubbard or to invoke
19 the ultimate sanciton of dismissing Plaintiffs' pleadings
20 is denied.

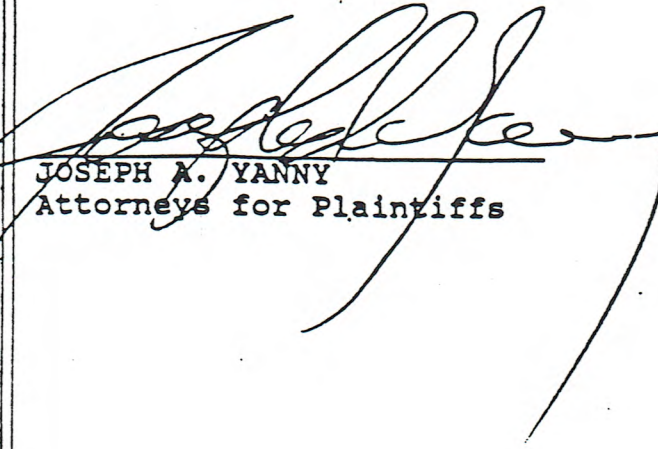
21 IT IS SO ORDERED this 24 day of January, 1986.

22
23 **MARIANA R. PFAELZER**

24 _____
25 MARIANA R. PFAELZER
26 DISTRICT COURT JUDGE

27 PRESENTED BY:
28 HERZIG & YANNY

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28


JOSEPH A. YANNY
Attorneys for Plaintiffs

VERIFICATION

STATE OF CALIFORNIA, COUNTY OF

I have read the foregoing _____

and know its contents.

CHECK APPLICABLE PARAGRAPH

I am a party to this action. The matters stated in it are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

I am an Officer a partner _____ a _____ of _____

a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. I have read the foregoing document and know its contents. The matters stated in it are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

I am one of the attorneys for _____

a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I have read the foregoing document and know its contents. I am informed and believe and on that ground allege that the matters stated in it are true.

Executed on _____, 19____, at _____ California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signature

ACKNOWLEDGMENT OF RECEIPT OF DOCUMENT
(other than summons and complaint)

Received copy of document described as _____

on _____ 19____

Signature

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF

I am employed in the county of Los Angeles State of California.

I am over the age of 18 and not a party to the within action; my business address is: _____

On 24 January 1986 I served the foregoing document described as
ORDER ON PLAINTIFFS' MOTION FOR RECONSIDERATION

_____ on _____
in this action by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid in the United States mail at: _____

addressed as follows:

BRIGHT & POWELL
18 Marine Center Building
Santa Barbara, Ca. 93109

MICHAEL J. TREMAN, ESQ.
105 East De La Guerra Street
Santa Barbara, Ca. 93103

(BY MAIL) I caused such envelope with postage thereon fully prepaid to be placed in the United States mail.
Executed on 24 January 1986 at Los Angeles California.

(BY PERSONAL SERVICE) I caused such envelope to be delivered by hand to the offices of the addressee.
Executed on _____ 19____ at _____ California.

(State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

(Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

John S. Treman
Signature

JUN 18

FILED
JUN 18 1991
CLERK, U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
BY *[Signature]* DEPUTY

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CHURCH OF SCIENTOLOGY)
OF CALIFORNIA,)
)
Plaintiff,)
)
v.)
)
INTERNAL REVENUE SERVICE,)
)
Defendant.)

CV 90-5638-WDK

ORDER

THIS CONSTITUTES NOTICE OF ENTRY
AS REQUIRED BY FRCP. RULE 77 (d).

Plaintiff's motion to strike the Declaration of Keith Alan Kuhn (the "Kuhn Declaration") and Plaintiff's motion for sanctions against the Internal Revenue Service (the "IRS") were heard by telephone on June 5, 1991.

Defendant filed the Kuhn Declaration in support of its motion for summary judgment. Plaintiff filed a motion to strike the Kuhn Declaration, on the grounds it contained scurrilous and hearsay allegations and was unsupported by any competent evidence.

Plaintiff also noticed the deposition of Mr. Kuhn in order to test the assertions in his declaration. The IRS opposed the deposition, and Plaintiff, properly, sought an order of the Court

1 compelling Mr. Kuhn to appear and answer questions regarding his
2 declaration. A telephonic hearing was held on this motion to
3 compel, and the Court gave the IRS the option of either
4 withdrawing the Kuhn Declaration or having Mr. Kuhn submit to a
5 deposition.

6 The IRS chose not to withdraw the declaration, and instead
7 produced Mr. Kuhn for deposition. However, the IRS refused to
8 "authorize" Mr. Kuhn to testify as to any factual matter which
9 did not appear on the face of his declaration and refused to
10 allow him to testify as to whether he even wrote the declaration
11 or had personal knowledge of the facts set forth in the
12 declaration. Accordingly, Plaintiff filed a second motion to
13 compel and a motion for sanctions under FED. R. CIV. P. 11 and
14 37, claiming the truncated deposition of Mr. Kuhn did not comply
15 with the Court's order. In response the IRS attempted to
16 withdraw the Kuhn Declaration from the case.

17 After consideration of the papers filed by the parties and
18 the oral argument held during the telephone conference on June 5,
19 1991, it is HEREBY ORDERED:

20 (1) that the Declaration of Keith Alan Kuhn is stricken from
21 the files of the Court because it has not been supported by any
22 competent evidence;

23 (2) that Plaintiff's motion to strike the declaration of
24 Keith Alan Kuhn, which makes specific references to the Kuhn
25 Declaration, and Defendant's opposition to the motion to strike
26 are also stricken and returned to the filing party; and
27
28

1 (3) that pursuant to FED. R. CIV. P. 37 Plaintiff is awarded
2 its reasonable expenses incurred as a result of Defendant's
3 improper refusal to permit the deposition of Mr. Kuhn. The Court
4 finds Plaintiff's reasonable expenses to be \$3,640.40. This
5 figure is calculated as follows: \$569.40 for the deposition
6 transcript, plus, \$571 for travel expenses (roundtrip coach fare
7 from Boston to Washington D.C. - the Court notes that given the
8 frequency of airline service between these two cities an
9 overnight stay was unreasonable), plus, \$2,500 for attorney's
10 fees (the Court finds it is unreasonable that any more than 10
11 hours were incurred to take this deposition, including travel
12 time and preparation, furthermore the Court finds the reasonable
13 rate for Mr. Cooley's services to be \$250 an hour).

14

15 IT IS SO ORDERED.

16

17

18 Date: June 17, 1991

19

20



21

William D. Keller

22

United States District Judge

23

24

25

26

27

28

1 UNITED STATES DISTRICT COURT
2 CENTRAL DISTRICT OF CALIFORNIA

3 - - -
4 HONORABLE WILLIAM D. KELLER, JUDGE PRESIDING
5 - - -

6 CHURCH OF SCIENTOLOGY OF)
7 CALIFORNIA,)
8 Plaintiff,)
9 vs.)
10 INTERNAL REVENUE SERVICE,)
11 Defendant.)

COPY

NO. CV 90-5638-WDK

12
13
14
15 REPORTER'S TRANSCRIPT OF TELEPHONIC PROCEEDINGS
16 Los Angeles, California
17 Wednesday, June 5, 1991
18

19
20
21
22
23 LORAIN M. DALEY, CSR, RPR
24 Official Court Reporter
25 453 United States Courthouse
312 North Spring Street
Los Angeles, California 90012
(213) 620-9001

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPEARANCES (VIA TELEPHONE):

In behalf of the Plaintiff:

**BOWLES & MOXON
BY: KENDRICK MOXON
6255 Sunset Boulevard, Suite 2000
Hollywood, California 90028**

In behalf of Defendant:

**U. S. DEPARTMENT OF JUSTICE
MICHAEL J. MARTINEAU
Trial Attorney, Tax Division
6832 Judiciary Center
555 Fourth Street, N.W.
Washington, D.C. 20001**

1 LOS ANGELES, CALIFORNIA; WEDNESDAY, JUNE 5, 1991:8:40 A.M.

2 (Telephonic Conference.)

3 THE COURT: Good morning. This is Judge
4 Keller.

5 May we have your appearances.

6 MR. MOXON: Kendrick Moxon for the plaintiff.

7 MR. MARTINEAU: Mike Martineau for the
8 Department of Justice on behalf of the defendant.

9 THE COURT: All right. I am not going to
10 repeat the procedural background other than to say that
11 where we are now is that we are addressing the so-called
12 Kuhn deposition.

13 It is my understanding that Mr. Kuhn appeared
14 at the deposition, but was only authorized under the
15 guidance of government counsel to testify to his knowledge
16 of the specific area and only to advise the plaintiff of
17 information that appears on the face of the declaration.
18 As a for instance, there was a question that was asked
19 referred to in plaintiff's motion at page nine:

20 "Question: Okay. Why do you attribute the
21 incident to the Church of Scientology or Scientology
22 official or Scientologist?

23 "Answer: As I said in paragraph two, the
24 common denominator among those employees recording
25 the incidents is the assignment as part of their

1 official duties as to Scientology-related cases.

2 "Question: That is it?

3 "Answer: Yes, sir. That is all I am prepared
4 to discuss. That is all I am prepared to discuss."

5 That gives you the problem, Mr. Martineau.

6 That was not what I contemplated in the ordered
7 deposition.

8 Now let me continue for a moment, and I will
9 let you give me some input. What I have just read
10 reflects that Mr. Kuhn was, indeed, going to limit himself
11 very much based upon the directive of the Internal Revenue
12 Service. As a consequence of this conduct, I mean now you
13 have presented to us a motion for sanctions under Rules 11
14 and 37(b)(2). Furthermore, the motion to strike the Kuhn
15 declaration remains before the Court.

16 Clearly, as I said, clearly, the conduct of the
17 deponent was inconsistent with the request for discovery
18 in the Court's order. Therefore, we are remitted to Rule
19 37, which mandates the Court shall award attorneys' fees
20 unless the Court finds that the failure was substantially
21 justified or other circumstances making an award of
22 expenses unjustified.

23 Now, Mr. Martineau, I want to know how you can
24 basically support the presentation, or lack thereof, made
25 by Kuhn at his deposition in view of what gave rise to the

1 deposition?

2 And, number two, if you can't support it, how
3 can you contend that the failure, as stated in Rule 37,
4 was substantially justified or other circumstances make an
5 award of expenses unjustified?

6 Because I am telling you, you are looking right
7 here at sanctions.

8 MR. MARTINEAU:.. Yes, your Honor.

9 Your Honor, Mr. Kuhn was ordered to testify
10 regarding his declaration that was at that time before the
11 Court. And he was prepared to testify to the maximum
12 extent he could based on the authorization -- of the
13 authorization that was generated by the Service to insure
14 that Mr. Kuhn did not disclose the specific names of the
15 IRS employees involved and/or compromise any of the
16 ongoing investigations with respect to the specific
17 incidents in his declaration.

18 The concern of the Service in making that
19 testimony authorization was that that material wouldn't
20 come out in the deposition, and that material was
21 otherwise privileged under the general right of privacy
22 under the investigatory files privilege. At that time --

23 THE COURT: What do you mean "investigatory
24 files privilege"? You know, you cite that in your papers,
25 and you don't give me any authority for that.

1 MR. MARTINEAU: Well, at that time and had we
2 decided not to withdraw the Kuhn declaration, we would
3 have in fact this hearing most likely where we would have
4 a situation where we were litigating or arguing these
5 privileges before the Court. And the Service was prepared
6 to do so at that particular time point in time because
7 they thought those were valid privileges necessary under
8 the circumstances here to assert.

9 THE COURT: But the problem is -- what I asked
10 you is what authority is there for this so-called
11 investigatory privilege that you reference not only in
12 your papers and now? I don't know what support there is
13 for that.

14 MR. MARTINEAU: As I say, we had legal support
15 that we would have asserted had we not decided to withdraw
16 the Kuhn declaration.

17 THE COURT: What is the support? What is the
18 legal support for that contention?

19 MR. MARTINEAU: There is case law that says
20 that certain matters which may compromise an ongoing
21 investigation can be privileged from disclosure at a
22 deposition or other hearing.

23 And we were prepared, as I say, to brief that
24 issue before your Honor had we decided to go ahead with --
25 continue using Mr. Kuhn's declaration in this case. And

1 that was the only rationale for Mr. Kuhn asserting those
2 privileges in his testimony.

3 We do not, your Honor, believe that your
4 Honor's order ordering the deposition to go forward to
5 preclude the government from asserting what it considered
6 to be a valid privilege with respect to that information.

7 THE COURT: Okay. Number one, you still
8 haven't given me any authority. You just keep mouthing
9 there is that privilege.

10 And, number two, your assertion of this
11 investigatory privilege is nonsensical, and I'll tell you
12 why. Because, definitionally, according to you, the
13 Scientologists know exactly who they did this to.

14 MR. MARTINEAU: I am not sure if I follow your
15 Honor. But there are ongoing investigations of those
16 incidents that are set forth there, and to release the
17 information about those would or could compromise the
18 integrity of those investigations. And that was the
19 Service's concern at that time. So, that is the rationale
20 behind that, your Honor.

21 THE COURT: But you didn't object to specific
22 questions. You just gave him a blanket "Don't answer
23 anything."

24 MR. MARTINEAU: Well, no. I think when the
25 questions were directed at the specifics of those

1 incidents, that is when the witness indicated that to give
2 the answers that were specifically asked may compromise
3 those investigations. And that gives rise to the
4 investigatory files privilege, and that is -- again, at
5 that time, we were not prepared or certain that -- had we
6 not decided subsequently to withdraw the declaration.

7 MR. MOXON: Your Honor, may I be heard on that?

8 I can't understand. I think that the Court is
9 exactly right. That if we are alleged to have done
10 something to some individuals, how can you intimidate some
11 person if you don't even know who it is. It is an
12 internally inconsistent argument. They claim we harassed,
13 but we can't tell you who it is who you harassed because
14 we if try to cross-examine, you will find out the whole
15 thing is a frivolous sham.

16 That is why we filed the motion to strike in
17 the first place, because the declaration is based on
18 hearsay allegations, which we spent months and months
19 telling them they were utterly false. They wouldn't give
20 us any -- they kept making the allegations to the Court,
21 and they were so scandalous. We had to file a motion to --
22 a motion to strike and everything else.

23 So, I just can't understand that argument. I
24 don't understand how they can make it now. Furthermore,
25 they never made any argument previous to the Court

1 claiming there was some privilege. They had two
2 opportunities in the two prior motions to argue some
3 privilege, to argue some reason why Kuhn couldn't testify.
4 They didn't do that. They didn't do it the first time
5 when we filed our original motion, and they didn't do it
6 the second time when we moved to compel the deposition.
7 They didn't raise it at the last hearing before the Court
8 either. This is the first time that they are raising that
9 argument, the first time after the Court told them they
10 could yank it if they didn't want to go through with the
11 deposition, but they still didn't make that argument.

12 MR. MARTINEAU: Your Honor, may I be heard on
13 that?

14 Normally when -- you can't anticipate a
15 question or anticipate an assertion of a particular
16 privilege. You have to go to the deposition. If a
17 certain question is asked, then a privilege is asserted.
18 So, I don't think procedurally you can anticipate that.
19 Which is why, you know, Mr. Moxon I don't think is correct
20 on that. We didn't know ahead of time, and you don't know
21 that. So, you have to wait until the question is asked,
22 and then you assert it. And that is how it rises
23 procedurally. So, I don't think that is a valid argument.

24 The point is again, your Honor, that at that
25 time the Service was prepared to litigate, if necessary,

1 those privileges and otherwise testify to the best of Mr.
2 Kuhn's ability to answer the questions that were presented
3 to him.

4 And, again, that is now not the case because
5 subsequently the declaration has been withdrawn and,
6 therefore, the government's position is that sanctions are
7 not warranted here. We have withdrawn the declaration.
8 We are not going to use it. We are going to rely on the
9 other evidence that we already have before the Court.

10 THE COURT: Well, you have got this reference
11 by counsel for the Scientologists. It is the Ninth
12 Circuit's characterization of your conduct as harass and
13 moot. And I have got to tell you that there may be moment
14 to your investigation. I don't know. But there certainly
15 is an aroma of a harass and moot approach here.

16 I don't believe -- I don't think the reason
17 that you have given me rises to the justification that is
18 contemplated by Rule 37, nor do I believe there are any
19 other circumstances making an award of expenses
20 unjustified.

21 The attorneys' fees, it seems to me, should be
22 recovered. However, if there were two attorneys there,
23 they are not going to be recovered for the two attorneys
24 absent some extraordinary reason. Mr. --

25 MR. MOXON: I can tell you the reason why we

1 had two attorneys there.

2 THE COURT: Why?

3 MR. MOXON: As you know, our motion to seal
4 this is considered to be an extremely serious matter.
5 There are allegations made of criminal conduct,
6 allegations that could seriously harm the interest of
7 those plaintiffs. It is a religious -- Mr. Cooley was
8 brought in the case because he was very, very familiar
9 with all these negotiations for the past several months
10 with the IRS trying to work out sealing these declarations
11 to the IRS, to do the responsible thing and not file it
12 because it is unsworn and hearsay allegations. So, he was
13 brought in to cross-examine Mr. Kuhn.

14 He was already on the East Coast, so he didn't
15 have to come as far as I did. I came because I had been
16 counsel on the case all along.

17 THE COURT: Why couldn't he have undertaken the
18 deposition with your input? Why did you need to go back
19 there for?

20 MR. MOXON: Because I had been working on the
21 case. I was more familiar with the procedural activity.

22 For example, they brought four attorneys to the
23 deposition.

24 THE COURT: That doesn't make any difference.
25 My experience of late is that there is a horrible

1 over-lawyering going on in the industry for sundry. I
2 shan't hold forth on that issue.

3 MR. MOXON: Well, whatever your Honor feels
4 best. It is certainly up to your discretion, your Honor
5 in terms of how many attorneys get fees and whatever the
6 Court feels.

7 THE COURT: Didn't this attorney in the East,
8 Cooley -- what is his name; Cooley?

9 MR. MOXON: Cooley. Yes, sir.

10 THE COURT: -- since he was negotiating this,
11 wasn't he in possession of the surrounding facts? He had
12 to be in order to negotiate.

13 MR. MOXON: Yes, he was.

14 THE COURT: All right. I am going to give you
15 one attorney fee. That is all.

16 What is the attorney fee you asked for, eight
17 thousand what?

18 MR. MOXON: A total of eight thousand five
19 hundred I put in my declaration. Actually, over nine
20 thousand.

21 THE COURT: Back your fees out of there and
22 give me a new statement of attorneys' fees.

23 What law permits me to award sanctions against
24 the federal government of attorneys' fees?

25 MR. MOXON: Sumitoma, your Honor.

1 THE COURT: That is Ninth Circuit?

2 MR. MOXON: Yes, sir.

3 THE COURT: Mr. Martineau, what is your
4 position in that regard?

5 MR. MARTINEAU: My understanding is that Rule
6 37 would govern this, and I am not certain. I would have
7 to check that, your Honor --

8 THE COURT: Okay.

9 MR. MARTINEAU: -- if the attorneys' fees are
10 awardable. I was under the impression that they could get
11 his expenses for traveling to and from the deposition.
12 But if your Honor would like me to, I would certainly be
13 willing to brief that issue, and if it is appropriate,
14 then certainly I will advise the Court of that, and you
15 can award them to the government.

16 MR. MOXON: I have gotten attorneys' fees three
17 times in the past month against Mr. Martineau's office,
18 and he is well aware of it.

19 THE COURT: Mr. Martineau, you should be versed
20 in this issue in as much as the issue was addressed by
21 counsel in his motion papers. And I think the Sumitoma
22 case does support the award of attorneys' fees, albeit
23 modified as I have indicated. And, so, that is the award.
24 Attorneys' fees and costs associated with the deposition.

25 Now the question becomes whether the

1 declaration is struck or withdrawn. It is struck. That
2 is the order.

3 Now, what do I do about moving this on further?
4 You asked for further deposition and Rule 11 ^{SANCTIONS} ~~sanctions~~. I
5 think there is some moment, albeit not much, to the
6 approach taken by Mr. Martineau, and I don't think it
7 rises to the level of a Rule 11. I don't think it serves
8 any purpose to go with further depositions, Mr. Moxon.

9 MR. MOXON: The reason I wanted a further
10 deposition, your Honor, is because this thing has been in
11 the public record for so long, and we wanted an
12 opportunity to refute it. It is a very scandalous
13 allegation, and because it was raised by the allegations --
14 because of allegations made by the IRS, we felt that we
15 should have an opportunity to publicly say this is wrong;
16 this is just false. And it is some other reason, but
17 these allegations are false.

18 When the federal government makes allegations
19 against somebody, it hits with a lot of impact. It is
20 often all over the press. And the federal government made
21 these allegations that are deemed to be true by the
22 public.

23 THE COURT: There has not been any press on
24 this, has there?

25 MR. MOXON: No, there has not. Not that I have

1 seen.

2 THE COURT: Hold the line a second.

3 (Brief Pause.)

4 THE COURT: Okay, Mr. Moxon.

5 MR. MOXON: Yes. Yes, sir.

6 THE COURT: I tell what I think would
7 accomplish what you want without raising a further ruckus
8 here.

9 MR. MOXON: Okay.

10 THE COURT: I am ordering that the declaration
11 is struck as unsupported.

12 MR. MOXON: Okay.

13 THE COURT: You prepare an order just that
14 succinct. Hearing with respect to the motion to strike
15 the declaration of Kuhn as being scurrilous. However you
16 denominate it. The Court, having heard the argument of
17 counsel and considering the papers, hereby orders that the
18 declaration is struck as unsupported. And that serves
19 your purpose.

20 MR. MARTINEAU: I will prepare such an order.

21 THE COURT: You understand what I am saying?

22 MR. MARTINEAU: Yes, I do.

23 MR. MOXON: You want me to prepare the order;
24 right?

25 MR. MARTINEAU: Okay.

1 THE COURT: I want you, Mr. Martineau -- you,
2 Mr. Moxon -- I am sorry. I want you -- this all has to be
3 by Friday. Okay? And I want you to give me the
4 backed-out attorneys' fees and order in that regard.

5 MR. MOXON: Very good. I will also file a
6 declaration to that effect.

7 THE COURT: What else needs to be done that I
8 haven't ruled on?

9 MR. MARTINEAU: Nothing, your Honor, I don't
10 believe.

11 THE COURT: I want Mr. Moxon to prepare the
12 order, Mr. Martineau.

13 MR. MARTINEAU: Okay. I am sorry.

14 MR. MOXON: One other thing. There are other
15 papers that were filed in connection with the motion to
16 strike, and they will also be stricken? That was also
17 attached to the Kuhn declaration that made reference to --
18 in other words, when we filed our motion to strike the
19 Kuhn declaration, we also attached to the declaration
20 that. That will be struck also?

21 THE COURT: Just indicate in your order what
22 you wish struck.

23 MR. MOXON: Very well. We will do that.

24 MR. MARTINEAU: Thank you, your Honor

25 (End of Proceedings.)

CERTIFICATE

I hereby certify that the foregoing is a true and correct transcript of the stenographically recorded proceedings in the above matter.

Lorraine M. Daley

Lorraine M. Daley, CSR, RPR
Official Reporter

June 18, 1991
Date

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 Timothy Bowles
Kendrick L. Moxon
2 BOWLES & MOXON
6255 Sunset Blvd., Suite 2000
3 Hollywood, CA 90028
(213) 953-3360
4

Jonathan W. Lubell
5 MORRISON COHEN SINGER & WEINSTEIN
750 Lexington Avenue
6 New York, New York 10022
(212) 735-8600
7

8 Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY INTERNATIONAL
9

10 UNITED STATES DISTRICT COURT
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA
12

13 CHURCH OF SCIENTOLOGY) CASE NO. CV 91-6426 HLH(Tx)
14 INTERNATIONAL, a California Non-)
Profit Religious Organization,) DECLARATION OF MONIQUE E.
15) YINGLING
Plaintiff,)
16)
vs.)
17)
STEVEN FISHMAN and UWE GEERTZ,)
18)
Defendants.)
19)
20

21 I, MONIQUE E. YINGLING, declare and say:

22 1. I am an attorney with the law firm Zuckert, Scoutt &
23 Rasenberger, and a member in good standing of the Bar
24 Association of the District of Columbia. I have represented
25 Church of Scientology International ("CSI"), other Churches of
26 Scientology and Scientology organizations in exemption
27 proceedings, litigation and other administrative proceedings
28

1 with the Internal Revenue Service ("IRS"). I have personal
2 knowledge of the facts set forth herein and, if called as a
3 witness, I could and would testify competently thereto.

4 2. I was first engaged to represent CSI and other
5 Churches of Scientology in early 1986 in connection with
6 applications for tax exemption then pending with the IRS
7 National Office. Through that representation, I became very
8 familiar with the corporate and legal structure and the
9 financial affairs of the Church of Scientology hierarchy and
10 related organizations. My responsibility for these matters
11 continued to increase and by early 1988, I had become lead
12 corporate and tax counsel for CSI. In this role I coordinated
13 with and shared responsibilities with other Church counsel. I
14 worked very closely with Thomas C. Spring, a specialist in exempt
15 organizations tax law, throughout this period.

16 3. In my capacity as lead corporate and tax counsel for
17 CSI, I reviewed virtually all major corporate and tax matters,
18 including proposals for changes in corporate or financial
19 structure, submissions to tax and other government agencies
20 on tax and corporate matters and regularly advised the staff in
21 CSI's legal division and Church executives with respect to tax
22 and corporate matters.

23 4. I acted in a similar capacity with respect to other
24 Churches of Scientology and related organizations. These
25 organizations included, but were not limited to, Religious
26 Technology Center, Church of Spiritual Technology, Church
27 of Scientology Flag Service Organization and Author Services,
28 Inc.

1 5. In my capacity as lead corporate and tax counsel for
2 CSI, I reviewed many of the major financial transactions of CSI
3 and the other organizations named above.

4 6. In my capacity as lead tax and corporate counsel for
5 CSI, I was involved with virtually all administrative tax matters
6 affecting the Church of Scientology hierarchy and related
7 organizations. I also coordinated with other counsel conducting
8 tax litigation matters where the tax litigation was not conducted
9 by me.

10 7. I represented CSI, other Churches of Scientology and
11 Scientology organizations during a series of negotiations with
12 the IRS which resulted in formal recognition of tax-exempt status
13 on October 1, 1993. In recognizing the exempt status of CSI and
14 other United States Church of Scientology organizations, the IRS
15 conducted an exhaustive examination over a two-year period
16 encompassing thousands of pages of documentation submitted for
17 that purpose. The IRS required extensive responses to numerous
18 detailed questions, ranging from questions regarding Church
19 activities and financial affairs to civil litigation and various
20 accusations of Church detractors, including the defendant herein,
21 Steven Fishman. The IRS's extensive queries into the financial
22 structure of the Churches of Scientology hierarchy, services they
23 deliver, the organization of individual Churches, the receipt and
24 disbursement of donations, and a myriad of other detailed
25 inquiries were fully satisfied in the process. The examination
26 by the IRS included the review of balance sheets, bank
27 statements, canceled checks and similar financial information.
28 The IRS's questions sought explanations regarding the most

1 inflammatory accusations and "information" regarding Scientology.
2 In addition to reviewing responses to specific questions, the IRS
3 also toured Church facilities and examined Church documents and
4 activities. Following its exhaustive review, the IRS was
5 satisfied that the Churches and other Scientology organizations
6 are organized and operated exclusively for charitable and
7 religious purposes and recognized their tax-exempt status. In so
8 doing, the IRS acknowledged CSI as the Mother Church of the
9 Scientology religion and recognized the corporate and financial
10 integrity of CSI and each of the other tax-exempt organizations.

11 8. Any assertion that the IRS did not review the Church's
12 activities and operations before recognition of exemption has no
13 basis in fact. Based on my personal experience and the
14 statements of IRS officials, there has never been a more
15 extensive or exhaustive review of the activities and financial
16 affairs of any tax-exempt organization.

17 9. I have continued to serve as lead tax and corporate
18 counsel for CSI and other churches of Scientology and related
19 organizations since my initial assumption of that role in early
20 1988 and continue to serve in that capacity today. Thus, over
21 the past six years I have worked directly with client
22 representatives from CSI and each of the other Scientology-
23 related entities that I have represented, and have had extensive
24 dealings with the executives and staff members who have
25 responsibility for corporate, legal, financial, and management
26 affairs.

27 10. Until the last few months, when they began filing
28 declarations in litigation, I had never heard of either Robert

1 Vaughn Young or Stacy Young. Neither Mr. Young nor Ms. Young
2 ever acted as a client representative for any of the Churches of
3 Scientology or related organizations that I dealt with on
4 corporate, tax, legal or financial matters, including Author
5 Services, Inc. I do not recall ever meeting either Mr. or Ms.
6 Young. Neither attended any meetings at which I was present
7 concerning any Church of Scientology or related organization's
8 corporate, tax, legal or financial matters. To my knowledge I
9 have received no submissions or information or had any
10 communication at all from either Mr. or Ms. Young.

11 11. It is therefore inconceivable to me that either Mr. or
12 Ms. Young played any significant role in the Church of
13 Scientology's corporate, tax, legal or financial affairs at any
14 time in the past six years. Moreover, neither Mr. nor Ms.
15 Young's name ever arose in the context of the corporate, tax,
16 legal and financial matters of prior years which I reviewed in
17 connection with the exemption process.

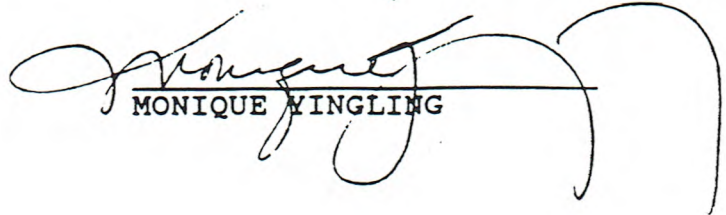
18 12. The allegations of Steven Fishman and his alleged role
19 in Scientology and its financial affairs were reviewed by the IRS
20 during the recent negotiations, as Steven Fishman's statements
21 had been provided to the IRS. Based on its review of various
22 Church financial records, including those of CSI, the IRS

23 ///
24 ///
25 ///
26 ///
27 ///
28 ///

1 necessarily concluded that Fishman's allegations were baseless,
2 or recognition of exemption would not have ensued.

3 I declare under the penalty of perjury under the laws of the
4 United States of America that the foregoing is true and correct.

5 Executed this ~~7th~~ day of February, 1994, at Los Angeles,
6 California.

7 
8 MONIQUE MINGLING

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 KENDRICK MOXON
2 BOWLES & MOXON
3 6255 Sunset Boulevard, Suite 2000
4 Hollywood, California 90028
5 (213) 953-3360

6
7
8
9 Attorneys for plaintiff
10 DAVID MISCAVIGE

11 UNITED STATES DISTRICT COURT
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA

13 DAVID MISCAVIGE,) Civil No. 88-7341 TJH(Kx)
14)
15 Plaintiff,) ORDER REGARDING
16) DECLARATION OF
17 v.) C. PHILIP XANTHOS
18)
19 INTERNAL REVENUE SERVICE,)
20)
21 Defendant.)
22)
23)
24)
25)
26)
27)
28)

29 In consideration of plaintiff's motion to strike the
30 declaration of C. Philip Xanthos, defendant's opposition and the
31 arguments of the parties, it is hereby recommended by the
32 Special Master as follows:

33 The Master finds that the attachment to the Xanthos
34 declaration, "RE: SMASH SQUIRRELS PJT", is a forgery and that at
35 any rate, the declaration and its attachment constitute a
36 response to interrogatories which pursuant to Local Rule 8.3,
37 shall not be filed with the clerk.

38 The Xanthos declaration, dated June 11, 1992 and its
39 attachment, which was originally filed on June 17, 1992 and a

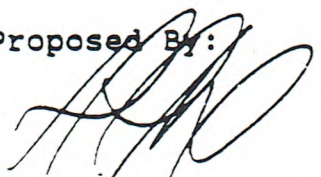
1 copy of which is also attached to the Plaintiff's evidentiary appendix
2 filed on February 22, 1993 in support of its motions for summary
3 judgment re: Exemption 7 (bates stamped 65-81), are hereby
4 stricken from the clerk's files. The declaration and its
5 attachment are to be removed from the files and returned by the
6 clerk's office to counsel for defendant.

7 Dated: September 30th 1993

8
9
10 
11 JACK TENNER
12 SPECIAL MASTER

13 IT IS SO ORDERED.

14
15 TERRY J. HATTER, JR.
16 UNITED STATES DISTRICT JUDGE

17 Proposed By: 
18 Kendrick L. Moxon
19 Attorney for Plaintiff
20 DAVID MISCAVIGE
21
22
23
24
25
26
27
28

STATE OF CALIFOR .)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) years and not a party of the within action. My business is located at 6255 Sunset Blvd., suite 2000, Hollywood, CA 90028.

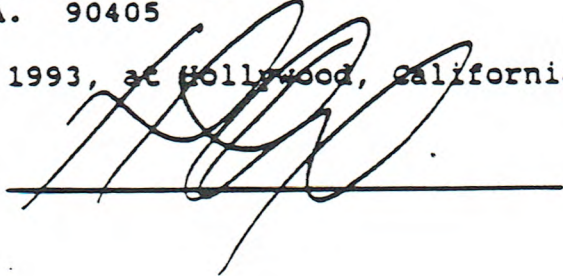
On September 16, 1993, I caused to be served the foregoing document described as ORDER REGARDING DECLARATION OF C. PHILIP XANTHOS on interested parties in this action, by placing the above-referenced document in an envelope, and sending by U.S. mail to the following addresses:

Michael J. Salem
Gerald A. Role
Tax Division, U.S. Department of Justice
P.O. Box 227
Ben Franklin Station
Washington, D.C. 20044

Richard Stack
Assistant United States Attorney
2315 Federal Building
300 North Los Angeles Street
Los Angeles, CA 90012

Honorable Jack Tenner
J.A.M.S.
3340 Ocean Park Blvd., Suite 1050
Santa Monica, CA. 90405

Executed on September 16, 1993, at Hollywood, California.



A handwritten signature in black ink, appearing to be 'MJS', is written over a solid horizontal line.


PROOF OF SERVICE BY MAIL

I, PRINCESS V.F. RAMEY, not a party to the within action, hereby declare that on September 20, 1993 I served the attached on the parties in the within action by depositing true copies thereof enclosed in sealed envelopes with postage thereon fully prepaid, in the United States Mail, at SANTA MONICA, CALIFORNIA, addressed as follows:

Kendrick Moxon Esq.
Bowles & Moxon
6255 Sunset Blvd., Ste 2000
Hollywood, CA 90028

Gerald Roll Esq.
Department of Justice
P. O. Box 227
Benjamin Franklin Station
Washington, DC 20044

I declare under penalty of perjury the foregoing to be true and correct. Executed at SANTA MONICA, CALIFORNIA on September 20, 1993.



Signature

SC102-003V-
11-5-93

FILED

NOV - 5 1993

HOWARD HANSON
MARIN COUNTY CLERK
by P. Fan, Deputy

1 ANDREW H. WILSON, ESQ. - State Bar #063209
 WILSON, RYAN & CAMPILONGO
 2 235 Montgomery Street, Suite 450
 San Francisco, California 94104
 3 (415) 391-3900

4 Laurie J. Bartilson
 BOWLES & MOXON
 5 6255 Sunset Boulevard, Suite 2000
 Hollywood, California 90028
 6 (213) 661-4030

7 Attorneys for Plaintiff
 CHURCH OF SCIENTOLOGY INTERNATIONAL

8

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 FOR THE COUNTY OF MARIN

11 CHURCH OF SCIENTOLOGY)
 12 INTERNATIONAL, a California not-)
 for-profit religious corporation;)
 13 Plaintiff,)
 14)
 15 vs.)
 16 GERALD ARMSTRONG; DOES 1 through)
 25, inclusive,)
 17 Defendants.)

Case No. 157680

DECLARATION OF LINDA M. FONG IN OPPOSITION TO THE MOTION TO COMMENCE COORDINATION PROCEEDINGS

BY FAX
 Date: November 12, 1993
 Time: 9:00 a.m.
 Dept: 1
 Trial Date: None

18

19 LINDA M. FONG deposes and says:

20 1. I am an attorney at law, licensed to practice before the
 21 Courts of the State of California and before this Court. I am an
 22 associate with the law firm of Wilson, Ryan & Campilongo ("WRC"),
 23 attorneys of record for Plaintiff Church of Scientology Internation-
 24 al ("Plaintiff"). As one of the attorneys responsible for the
 25 representation of Plaintiff in this action, I make this Declaration
 26 of my own personal knowledge in support of Plaintiff's Memorandum of
 27 Points and Authorities in Opposition to Armstrong's Motion for Stay
 28 Pending Coordination Proceedings.

WILSON, RYAN & CAMPILONGO
235 Montgomery Street, Suite 450
San Francisco, California 94104

57199

1 2. On October 25, 1993, Plaintiff requested that I attempt to
2 work out a compromise with Solina Walton regarding her motion to
3 expunge Lis Pendens and to intervene. The motion was scheduled for
4 hearing on shortened time before this Court for October 29, 1993.
5 The Lis Pendens had been recorded by Plaintiff against certain real
6 property located in Marin County, and which is the subject matter of
7 this litigation.

8 3. On October 25, 1993, I engaged in a telephone conversation
9 with James R. Langford, III, Esq. and someone identified as Bob
10 Taylor, attorneys representing Solina Walton. During that conversa-
11 tion, Ms. Walton's attorneys agreed to withdraw the motion to
12 expunge Lis Pendens scheduled for hearing on October 29, 1993 before
13 this Court, and Plaintiff agreed to the recordation of a withdrawal
14 of the Lis Pendens for purposes of allowing Mrs. Walton to refinance
15 the Property. It was further agreed that once the refinancing was
16 obtained, another Lis Pendens may be recorded against the Property,
17 although Mrs. Walton did not waive any right to expunge. Attached
18 hereto and incorporated herein as Exhibit A is a true and correct
19 copy of my letter dated October 26, 1993 to Mr. Langford
20 memorializing that telephone conversation.

21 4. After my office faxed the above-described letter, I
22 received a return telephone call from Mr. Langford at his home.
23 Apparently he was sick. He stated that he had not seen my letter
24 and I explained to him what it stated. Mr. Langford stated that he
25 did not want to prepare the escrow instructions and upon some
26 probing, he explained that the reason was that he did not want to do
27 the work. I stated that the instructions were set forth in my
28 letter and he indicated acceptance of our proposal.

1 5. The next day, on October 27, 1993, I received another
2 telephone call from Messrs. Langford and Taylor at which time they
3 told me that the escrow instructions were unacceptable because they
4 feared such instructions might be construed as an admission by Mrs.
5 Walton that the recordation of the Lis Pendens was proper. Instead,
6 they suggested the following: that Mrs. Walton would withdraw the
7 motion to expunge set for October 29, 1993 without prejudice if
8 Plaintiff would transmit a withdrawal of its Lis Pendens to Placer
9 Title in San Rafael. I promised to confer with my client and let
10 them know our decision as soon as possible.

11 6. On October 28, 1993, I telephoned Mr. Langford using the
12 two (2) telephone numbers he had given me the day before to inform
13 him that Plaintiff agreed to their proposal. I did not hear from
14 either Mr. Taylor or Mr. Langford in the morning of that day.
15 However, at approximately 3:00 p.m. Mr. Taylor called me and I
16 informed him of our acceptance. Attached hereto and incorporated
17 herein as Exhibit B is a true and correct copy of the letter from
18 Mr. Langford telecopied to me in the late afternoon of October 28,
19 1993 memorializing our agreement.


20 7. Immediately after I hung up the telephone with Mr. Taylor,
21 I executed the Withdrawal of Lis Pendens before a notary and made
22 arrangements for delivery to Placer Title on a "rush basis." In
23 fact, the package was picked up by a messenger service at 3:22 p.m.
24 and delivered approximately one hour later to Placer Title.
25 Attached hereto and incorporated herein as Exhibit C is a true and
26 correct copy of the messenger's declaration confirming the delivery.

27 8. On November 1, 1993, I learned for the first time that the
28 withdrawal of Lis Pendens had not been recorded and sent Mr.

1 Langford a letter, a true and correct copy of which is attached
2 hereto and incorporated herein as Exhibit D.

3 9. On that same day, I received a telecopied letter from Mr.
4 Langford, a true and correct copy of which is attached hereto and
5 incorporated herein as Exhibit E. For the first time I learned that
6 he had not withdrawn the motion to expunge and that he had obtained
7 an order from this Court granting the motion. As of this date, we
8 have never been served with a copy of the order. Attached hereto
9 and incorporated herein as Exhibit E is a true and correct copy of
10 my letter dated November 3, 1993 to Mr. Langford responding to his
11 letter.

12 I declare under penalty of perjury pursuant to the laws of the
13 State of California that the foregoing is true and correct.
14 Executed this 5th day of November, 1993 at San Francisco, Califor-
15 nia.



LINDA M. FONG
Attorneys for Plaintiff
Church of Scientology
International



WILSON, RYAN & CAMPILONGO

A PROFESSIONAL LAW CORPORATION
235 MONTGOMERY STREET, SUITE 450
SAN FRANCISCO, CALIFORNIA 94104
(415) 391-3900
TELECOPY (415) 954-0938

ANDREW H. WILSON
STEPHEN C. RYAN*
CHRISTOPHER B. TIGNO
ANNE R. WOODS
LINDA M. FONG
SHAUNA T. RAJKOWSKI
EDWARD S. ZUSMAN
IAIN-BREAC MACLEOD
GREGORY R. DIETRICH

* CERTIFIED TAXATION SPECIALIST
THE STATE BAR OF CALIFORNIA
BOARD OF LEGAL SPECIALIZATION

FILE

OF COUNSEL
LISA F. CAMPILONGO
EDWARD L. BLUM

FAKE

October 26, 1993

Via Facsimile (510) 947-0111

James R. Langford, III, Esq.
500 Ygnacio Valley Road, Suite 490
Walnut Creek, CA 94596-3847

Re: CSI v. Armstrong;
Our File No. SCI02-003A

Dear Mr. Langford:

This will confirm our telephone conversation of October 25 wherein you agreed to withdraw your Motion to Expunge Lis Pendens scheduled for hearing on October 29 and Plaintiff agreed to the recordation of an expungement of the lis pendens for the purposes of allowing your client, Solina Walton, to refinance the subject real property. You further agreed that once the refinancing is obtained, another lis pendens may be recorded against the property, although you do not waive any right to move to expunge it.

In order to comply with the above-referenced agreement, we request you prepare escrow instructions setting forth the following:

1. Upon securing refinancing, and clearing all liens and encumbrances in connection with that transaction, Solina Walton may record the withdrawal of lis pendens, a copy of which is enclosed.
2. Upon encumbering the subject property in the sum of [the dollar amount of the refinance], the enclosed Notice of Lis Pendens shall be recorded immediately thereafter.

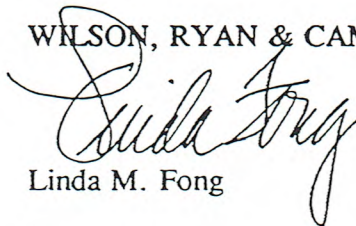
EXHIBIT A

Please prepare and fax to me the appropriate escrow instructions for our review and approval today.

Thank you for your cooperation.

Very truly yours,

WILSON, RYAN & CAMPILONGO

A handwritten signature in cursive script, appearing to read "Linda M. Fong".

Linda M. Fong

LMF-0689.LTR:pan

Enclosure

cc: Andrew H. Wilson, Esq.



OF COUNSEL

David J. Elefant

Law Offices of
JAMES R. LANGFORD III
500 Ygnacio Valley Road, Suite 490
Walnut Creek, California 94596-3847
510/947-0100
Fax 947-0111

October 28, 1993

(VIA FACSIMILE 415/954-0938)

Linda M. Fong, Esq.
WILSON, RYAN & CAMPILONGO
235 Montgomery Street, Suite 450
San Francisco, CA 94104

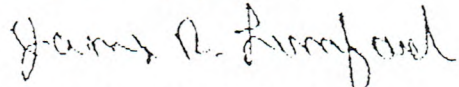
Dear Ms. Fong:

This will confirm my client Solina Walton will withdraw the motion to expunge set for tomorrow without prejudice when you have transmitted a recordable notarized withdrawal of your lis pendens to the escrow company directly. The withdrawal should be delivered immediately to Attn: Julie at Placer Title located at 851 Irwin Street, Suite 104 in San Rafael, phone number 453-2608, escrow number 104437.

As part of this arrangement, my client represents she will not transfer or otherwise voluntarily encumber the real property for no less than seven (7) days after transmitting to you by facsimile notice to you that a new deed of trust has been recorded. This notice will be given as soon as possible after recordation occurs.

If this arrangement is unacceptable for any reason, please let me know immediately.

Very truly yours,



JAMES R. LANGFORD III

JRL/dev
b4/fong2.ltr



1 ANDREW H. WILSON, ESQ. - State Bar No. 063209
LINDA M. FONG, ESQ. - State Bar No. 124232
2 WILSON, RYAN & CAMPILONGO
235 Montgomery Street, Suite 450
3 San Francisco, California 94104
(415) 391-3900

4 LAURIE J. BARTILSON
5 BOWLES & MOXON
6255 Sunset Boulevard, Suite 2000
6 Hollywood, California 90028
(213) 953-3360

7 Attorneys for Plaintiff
8 CHURCH OF SCIENTOLOGY INTERNATIONAL

9
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 FOR THE COUNTY OF MARIN

12 CHURCH OF SCIENTOLOGY) CASE NO. 157680
13 INTERNATIONAL, a California not-)
for-profit religious corporation,) DECLARATION OF ROBERT
14 Plaintiff,) McANDREWS
15 vs.)
16)
17 GERALD ARMSTRONG; MICHAEL WALTON;)
THE GERALD ARMSTRONG CORPORATION, a)
18 California for-profit corporation;)
DOES 1 through 100, inclusive,)
19 Defendants.)
20

21 I, ROBERT McANDREWS, declare:

22 1. I have been employed as a messenger for Lightning
23 Express messenger service for the past three years.

24 2. If called as a witness I could and would
25 competently testify thereto to all facts within my personal
26 knowledge except for those stated upon information and belief.

27 3. On October 28, 1993, I picked up a package at
28 approximately 3:22 p.m. from Wilson, Ryan & Campilongo for

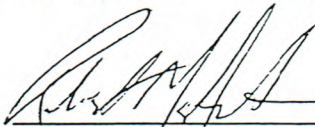
EXHIBIT C

WILSON, RYAN & MPILONGO
235 Montgomery Street, Suite 450
San Francisco, California 94104

1 delivery to Placer Title, Attention: Julie, 851 Irwin Street,
2 Suite 104, San Rafael, California. The delivery was a on "rush"
3 basis. I delivered the package to Placer Title at that address at
4 approximately 4:20 p.m. Jay Corona signed for the package.

5 I declare under penalty of perjury pursuant to the laws of
6 the State of California that the foregoing is true and correct.

7 Executed November 3, 1993 at San Francisco, California.

8
9 

10 Robert McAndrews
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28



WILSON, RYAN & CAMPILONGO

A PROFESSIONAL LAW CORPORATION

235 MONTGOMERY STREET, SUITE 450

SAN FRANCISCO, CALIFORNIA 94104

(415) 391-3900

TELECOPY (415) 954-0938

ANDREW H. WILSON
 STEPHEN C. RYAN
 CHRISTOPHER B. TIGNO
 ANNE R. WOODS
 LINDA M. FONG
 SHAUNA T. RAJKOWSKI
 EDWARD S. ZUSMAN
 IAIN-BREAC MACLEOD

OF COUNSEL
 LISA F. CAMPILONGO
 EDWARD L. BLUM

* CERTIFIED TAXATION SPECIALIST
 THE STATE BAR OF CALIFORNIA
 BOARD OF LEGAL SPECIALIZATION

November 1, 1993

Via Facsimile (510) 947-0111

James R. Langford, III, Esq.
 500 Ygnacio Valley Road, Suite 490
 Walnut Creek, CA 94596-3847

Re: CSI v. Armstrong;
Our File No. SCI02-003A

Dear Mr. Langford:

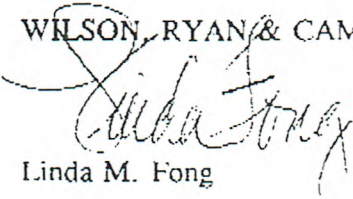
On October 28, 1993 we hand delivered to Julie at Placer Title the Withdrawal of Lis Pendens as required by our agreement memorialized in your letter to me dated the same date. Accordingly, you were to withdraw the Motion to Expunge scheduled for hearing on October 29. If you did not do so, please notify me immediately.

Today I learned from Julie that the Withdrawal was not recorded because her supervisor questioned another document that Mr. Walton apparently was attempting to record, which, in Julie's words was an attempt to preclude any subsequent Lis Pendens from being recorded against the property.

Please be advised that if Mr. Walton seeks to encumber the property contrary to the agreement between Ms. Walton and the Church of Scientology, we deem that action as a breach of the agreement and will seek all available remedies.

Very truly yours,

WILSON, RYAN & CAMPILONGO



Linda M. Fong

LMI-0697.LTR:cyp

EXHIBIT D



Law Offices of
JAMES R. LANGFORD III

500 Ygnacio Valley Road, Suite 490
Walnut Creek, California 94596-3847
510/947-0100
Fax 947-0111

OF COUNSEL

David J. Elefant

November 2, 1993

(VIA FACSIMILE 415/954-0938)

Linda M. Fong, Esq.
WILSON, RYAN & CAMPILONGO
235 Montgomery Street, Suite 450
San Francisco, CA 94104

Dear Ms. Fong:

Unfortunately, your refusal to abide by the agreement we reached on October 25, as substantially reflected in your October 26 letter, resulted in much delay and cost.

In addition, after I accommodated you even further, on October 28, you told Mr. Taylor you could have the withdrawal of the lis pendens delivered to Placer Title by 4:00 p.m. that day. It was not so delivered. Placer Title was also led to believe by your conversation with them that you would not be delivering the withdrawal that day. As a result, Julie at Placer Title, did not learn of the delivery of this document until Friday afternoon, October 29. You said nothing to me. In any event, it appears the document was delivered too late to notify the court by 4:30 p.m. on October 28 of withdrawal of the motion.

As we have made you continuously aware, time is of the essence in this matter, and we acted accordingly. Therefore, an order granting the motion based on the tentative ruling was obtained and recorded Friday morning, and only later we discovered a withdrawal had been tardily delivered. This would not have occurred had you not chosen to wait until essentially beyond the last possible moment to attempt to satisfy the condition of our agreement. You apparently waited for the tentative ruling before deciding you had better do something about it.

My client is not attempting to play games here, as you apparently have been doing. The withdrawal of the lis pendens has not been recorded, pending confirmation from you that you in fact believe we still have an agreement. Please let me know before 12:00 noon tomorrow whether you believe we have an agreement authorizing me to record the lis pendens. If you so confirm this to me in writing, my client will not enforce the order. If I do not hear from you, I will assume it was not your intent to satisfy

EXHIBIT E

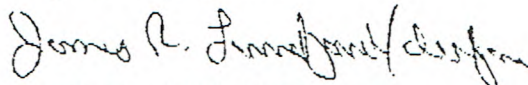
Linda M. Fong, Esq.
November 2, 1993
Page 2

the condition of our agreement, and Ms. Walton will not record the withdrawal.

As you have had our motion papers for almost two weeks, you are now well aware that in fact the lis pendens is not proper, and any lis pendens you record in this matter is harassment and will be expunged upon motion. If you choose to rerecord a lis pendens following my client's refinancing, we will immediately move to expunge that lis pendens, and will seek to recover fees for both motions.

Please confirm to me as soon as possible and before 12:00 noon tomorrow whether Ms. Walton is in fact authorized to record the withdrawal of lis pendens. Thank you in advance for your anticipated courtesy and cooperation.

Very truly yours,



JAMES R. LANGFORD III

JRL/dev
b2\lmg3.ltr

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 6255 Sunset Boulevard, Suite 2000, Los Angeles, CA 90028.

On May 20, 1994 I served the foregoing document described as THIRD REQUEST FOR JUDICIAL NOTICE on interested parties in this action,

- by placing the true copies thereof in sealed envelopes as stated on the attached mailing list;
- by placing the original true copies thereof in sealed envelopes addressed as follows:

FORD GREENE
HUB Law Offices
711 Sir Francis Drake Blvd.
San Anselmo, CA 94960-1949

MICHAEL WALTON
700 Larkspur Landing Circle
Suite 120
Larkspur, CA 94939

BY MAIL

*I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing an affidavit.

Executed on May 20, 1994 at Los Angeles, California.

**(BY PERSONAL SERVICE) I delivered such envelopes by hand to the offices of the addressees.

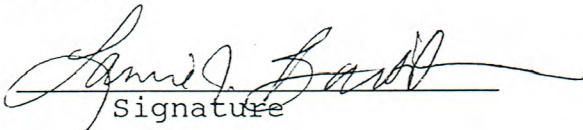
[]** Such envelopes were hand delivered by
Messenger Service

Executed on May 20, 1994, at Los Angeles, California.

[X] (State) I declare under penalty of the laws of
the State of California that the above is true and
correct.

[] (Federal) I declare that I am employed in the
office of a member of the bar of this court at
whose direction the service was made.

Laurie Baldwin
Print or Type Name


Signature

* (By Mail, signature must be of person depositing
envelope in mail slot, box or bag)

** (For personal service signature must be that of
messenger)

SC102-003V-
11-5-93

FILED

NOV - 5 1993

HOWARD HANSON
MARIN COUNTY CLERK
by P. Fan, Deputy

1 ANDREW H. WILSON, ESQ. - State Bar #063209
WILSON, RYAN & CAMPILONGO
2 235 Montgomery Street, Suite 450
San Francisco, California 94104
3 (415) 391-3900

4 Laurie J. Bartilson
BOWLES & MOXON
5 6255 Sunset Boulevard, Suite 2000
Hollywood, California 90028
6 (213) 661-4030

7 Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY INTERNATIONAL

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 FOR THE COUNTY OF MARIN

11 CHURCH OF SCIENTOLOGY)
12 INTERNATIONAL, a California not-)
for-profit religious corporation;)
13 Plaintiff,)
14 vs.)
15 GERALD ARMSTRONG; DOES 1 through)
16 25, inclusive,)
17 Defendants.)

Case No. 157680
DECLARATION OF LINDA M.
FONG IN OPPOSITION TO THE
MOTION TO COMMENCE
COORDINATION PROCEEDINGS
BY FAX
Date: November 12, 1993
Time: 9:00 a.m.
Dept: 1
Trial Date: None

18
19 LINDA M. FONG deposes and says:

20 1. I am an attorney at law, licensed to practice before the
21 Courts of the State of California and before this Court. I am an
22 associate with the law firm of Wilson, Ryan & Campilongo ("WRC"),
23 attorneys of record for Plaintiff Church of Scientology Internation-
24 al ("Plaintiff"). As one of the attorneys responsible for the
25 representation of Plaintiff in this action, I make this Declaration
26 of my own personal knowledge in support of Plaintiff's Memorandum of
27 Points and Authorities in Opposition to Armstrong's Motion for Stay
28 Pending Coordination Proceedings.

WILSON, RYAN & CAMPILONGO
235 Montgomery Street, Suite 450
San Francisco, California 94104

1 2. On October 25, 1993, Plaintiff requested that I attempt to
2 work out a compromise with Solina Walton regarding her motion to
3 expunge Lis Pendens and to intervene. The motion was scheduled for
4 hearing on shortened time before this Court for October 29, 1993.
5 The Lis Pendens had been recorded by Plaintiff against certain real
6 property located in Marin County, and which is the subject matter of
7 this litigation.

8 3. On October 25, 1993, I engaged in a telephone conversation
9 with James R. Langford, III, Esq. and someone identified as Bob
10 Taylor, attorneys representing Solina Walton. During that conversa-
11 tion, Ms. Walton's attorneys agreed to withdraw the motion to
12 expunge Lis Pendens scheduled for hearing on October 29, 1993 before
13 this Court, and Plaintiff agreed to the recordation of a withdrawal
14 of the Lis Pendens for purposes of allowing Mrs. Walton to refinance
15 the Property. It was further agreed that once the refinancing was
16 obtained, another Lis Pendens may be recorded against the Property,
17 although Mrs. Walton did not waive any right to expunge. Attached
18 hereto and incorporated herein as Exhibit A is a true and correct
19 copy of my letter dated October 26, 1993 to Mr. Langford
20 memorializing that telephone conversation.

21 4. After my office faxed the above-described letter, I
22 received a return telephone call from Mr. Langford at his home.
23 Apparently he was sick. He stated that he had not seen my letter
24 and I explained to him what it stated. Mr. Langford stated that he
25 did not want to prepare the escrow instructions and upon some
26 probing, he explained that the reason was that he did not want to do
27 the work. I stated that the instructions were set forth in my
28 letter and he indicated acceptance of our proposal.

1 5. The next day, on October 27, 1993, I received another
2 telephone call from Messrs. Langford and Taylor at which time they
3 told me that the escrow instructions were unacceptable because they
4 feared such instructions might be construed as an admission by Mrs.
5 Walton that the recordation of the Lis Pendens was proper. Instead,
6 they suggested the following: that Mrs. Walton would withdraw the
7 motion to expunge set for October 29, 1993 without prejudice if
8 Plaintiff would transmit a withdrawal of its Lis Pendens to Placer
9 Title in San Rafael. I promised to confer with my client and let
10 them know our decision as soon as possible.

11 6. On October 28, 1993, I telephoned Mr. Langford using the
12 two (2) telephone numbers he had given me the day before to inform
13 him that Plaintiff agreed to their proposal. I did not hear from
14 either Mr. Taylor or Mr. Langford in the morning of that day.
15 However, at approximately 3:00 p.m. Mr. Taylor called me and I
16 informed him of our acceptance. Attached hereto and incorporated
17 herein as Exhibit B is a true and correct copy of the letter from
18 Mr. Langford telecopied to me in the late afternoon of October 28,
19 1993 memorializing our agreement.

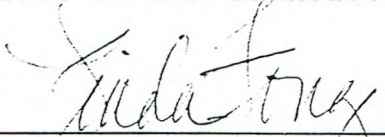
20 7. Immediately after I hung up the telephone with Mr. Taylor,
21 I executed the Withdrawal of Lis Pendens before a notary and made
22 arrangements for delivery to Placer Title on a "rush basis." In
23 fact, the package was picked up by a messenger service at 3:22 p.m.
24 and delivered approximately one hour later to Placer Title.
25 Attached hereto and incorporated herein as Exhibit C is a true and
26 correct copy of the messenger's declaration confirming the delivery.

27 8. On November 1, 1993, I learned for the first time that the
28 withdrawal of Lis Pendens had not been recorded and sent Mr.

1 Langford a letter, a true and correct copy of which is attached
2 hereto and incorporated herein as Exhibit D.

3 9. On that same day, I received a telecopied letter from Mr.
4 Langford, a true and correct copy of which is attached hereto and
5 incorporated herein as Exhibit E. For the first time I learned that
6 he had not withdrawn the motion to expunge and that he had obtained
7 an order from this Court granting the motion. As of this date, we
8 have never been served with a copy of the order. Attached hereto
9 and incorporated herein as Exhibit E is a true and correct copy of
10 my letter dated November 3, 1993 to Mr. Langford responding to his
11 letter.

12 I declare under penalty of perjury pursuant to the laws of the
13 State of California that the foregoing is true and correct.
14 Executed this 5th day of November, 1993 at San Francisco, Califor-
15 nia.



LINDA M. FONG
Attorneys for Plaintiff
Church of Scientology
International



WILSON, RYAN & CAMPILONGO

ANDREW H. WILSON
STEPHEN C. RYAN*
CHRISTOPHER B. TIGNO
ANNE R. WOODS
LINDA M. FONG
SHAUNA T. RAJKOWSKI
EDWARD S. ZUSMAN
IAIN-BREAC MACLEOD
GREGORY R. DIETRICH

A PROFESSIONAL LAW CORPORATION
235 MONTGOMERY STREET, SUITE 450
SAN FRANCISCO, CALIFORNIA 94104
(415) 391-3900
TELECOPY (415) 954-0938

OF COUNSEL
LISA F. CAMPILONGO
EDWARD L. BLUM

FILE

FAXED

* CERTIFIED TAXATION SPECIALIST
THE STATE BAR OF CALIFORNIA
BOARD OF LEGAL SPECIALIZATION

October 26, 1993

Via Facsimile (510) 947-0111

James R. Langford, III, Esq.
500 Ygnacio Valley Road, Suite 490
Walnut Creek, CA 94596-3847

Re: CSI v. Armstrong;
Our File No. SCI02-003A

Dear Mr. Langford:

This will confirm our telephone conversation of October 25 wherein you agreed to withdraw your Motion to Expunge Lis Pendens scheduled for hearing on October 29 and Plaintiff agreed to the recordation of an expungement of the lis pendens for the purposes of allowing your client, Solina Walton, to refinance the subject real property. You further agreed that once the refinancing is obtained, another lis pendens may be recorded against the property, although you do not waive any right to move to expunge it.

In order to comply with the above-referenced agreement, we request you prepare escrow instructions setting forth the following:

1. Upon securing refinancing, and clearing all liens and encumbrances in connection with that transaction, Solina Walton may record the withdrawal of lis pendens, a copy of which is enclosed.
2. Upon encumbering the subject property in the sum of [the dollar amount of the refinance], the enclosed Notice of Lis Pendens shall be recorded immediately thereafter.

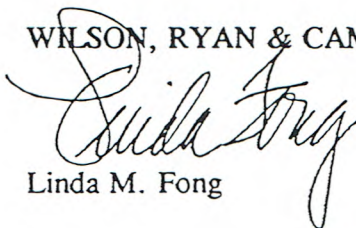
EXHIBIT A

Please prepare and fax to me the appropriate escrow instructions for our review and approval today.

Thank you for your cooperation.

Very truly yours,

WILSON, RYAN & CAMPILONGO

A handwritten signature in black ink, appearing to read "Linda M. Fong". The signature is written in a cursive style with a large initial "L" and a long, sweeping tail.

Linda M. Fong

LMF-0689.LTR:pan

Enclosure

cc: Andrew H. Wilson, Esq.



Law Offices of
JAMES R. LANGFORD III

500 Ygnacio Valley Road, Suite 490
Walnut Creek, California 94596-3847
510/947-0100
Fax 947-0111

OF COUNSEL

David J. Elefant

October 28, 1993

(VIA FACSIMILE 415/954-0938)

Linda M. Fong, Esq.
WILSON, RYAN & CAMPILONGO
235 Montgomery Street, Suite 450
San Francisco, CA 94104

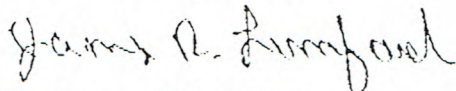
Dear Ms. Fong:

This will confirm my client Solina Walton will withdraw the motion to expunge set for tomorrow without prejudice when you have transmitted a recordable notarized withdrawal of your lis pendens to the escrow company directly. The withdrawal should be delivered immediately to Attn: Julie at Placer Title located at 851 Irwin Street, Suite 104 in San Rafael, phone number 453-2608, escrow number 104437.

As part of this arrangement, my client represents she will not transfer or otherwise voluntarily encumber the real property for no less than seven (7) days after transmitting to you by facsimile notice to you that a new deed of trust has been recorded. This notice will be given as soon as possible after recordation occurs.

If this arrangement is unacceptable for any reason, please let me know immediately.

Very truly yours,



JAMES R. LANGFORD III

JRL/dev
b4/fong2.ltr

WILSON, RYAN & MPILONGO
235 Montgomery Street, Suite 450
San Francisco, California 94104

1 ANDREW H. WILSON, ESQ. - State Bar No. 063209
LINDA M. FONG, ESQ. - State Bar No. 124232
2 WILSON, RYAN & CAMPILONGO
235 Montgomery Street, Suite 450
3 San Francisco, California 94104
(415) 391-3900

4 LAURIE J. BARTILSON
5 BOWLES & MOXON
6255 Sunset Boulevard, Suite 2000
6 Hollywood, California 90028
(213) 953-3360

7 Attorneys for Plaintiff
8 CHURCH OF SCIENTOLOGY INTERNATIONAL

9
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 FOR THE COUNTY OF MARIN

12 CHURCH OF SCIENTOLOGY) CASE NO. 157680
13 INTERNATIONAL, a California not-)
for-profit religious corporation,)
14 Plaintiff,) DECLARATION OF ROBERT
15 vs.) McANDREWS
16)
17 GERALD ARMSTRONG; MICHAEL WALTON;)
THE GERALD ARMSTRONG CORPORATION, a)
18 California for-profit corporation;)
DOES 1 through 100, inclusive,)
19 Defendants.)

20
21 I, ROBERT McANDREWS, declare:

22 1. I have been employed as a messenger for Lightning
23 Express messenger service for the past three years.

24 2. If called as a witness I could and would
25 competently testify thereto to all facts within my personal
26 knowledge except for those stated upon information and belief.

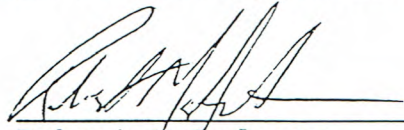
27 3. On October 28, 1993, I picked up a package at
28 approximately 3:22 p.m. from Wilson, Ryan & Campilongo for

EXHIBIT C

1 delivery to Placer Title, Attention: Julie, 851 Irwin Street,
2 Suite 104, San Rafael, California. The delivery was a on "rush"
3 basis. I delivered the package to Placer Title at that address at
4 approximately 4:20 p.m. Jay Corona signed for the package.

5 I declare under penalty of perjury pursuant to the laws of
6 the State of California that the foregoing is true and correct.

7 Executed November 3, 1993 at San Francisco, California.

8
9 

10 Robert McAndrews
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28



WILSON, RYAN & CAMPILONGO

ANDREW H. WILSON
 STEPHEN C. RYAN*
 CHRISTOPHER B. TIGNO
 ANNE R. WOODS
 LINDA M. FONG
 SHAUNA T. RAJKOWSKI
 EDWARD S. ZUSMAN
 IAIN-BREAC MACLEOD

A PROFESSIONAL LAW CORPORATION
 235 MONTGOMERY STREET, SUITE 450
 SAN FRANCISCO, CALIFORNIA 94104
 (415) 391-3900
 TELECOPY (415) 954-0938

OF COUNSEL
 LISA F. CAMPILONGO
 EDWARD L. BLUM

* CERTIFIED TAXATION SPECIALIST
 THE STATE BAR OF CALIFORNIA
 BOARD OF LEGAL SPECIALIZATION

November 1, 1993

Via Facsimile (510) 947-0111

James R. Langford, III, Esq.
 500 Ygnacio Valley Road, Suite 490
 Walnut Creek, CA 94596-3847

Re: CSI v. Armstrong;
Our File No. SCI02-003A

Dear Mr. Langford:

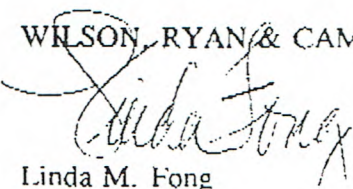
On October 28, 1993 we hand delivered to Julie at Placer Title the Withdrawal of Lis Pendens as required by our agreement memorialized in your letter to me dated the same date. Accordingly, you were to withdraw the Motion to Expunge scheduled for hearing on October 29. If you did not do so, please notify me immediately.

Today I learned from Julie that the Withdrawal was not recorded because her supervisor questioned another document that Mr. Walton apparently was attempting to record, which, in Julie's words was an attempt to preclude any subsequent Lis Pendens from being recorded against the property.

Please be advised that if Mr. Walton seeks to encumber the property, contrary to the agreement between Ms. Walton and the Church of Scientology, we deem that action as a breach of the agreement and will seek all available remedies.

Very truly yours,

WILSON, RYAN & CAMPILONGO


 Linda M. Fong

LMI-0697.LTR.cyp

EXHIBIT D